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## Autonomy and exclusion among Danish prisoners in education

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# Editorial Comment

**This edition of *Prison Service Journal* has an eclectic mix of contributions from UK and around Europe. Some of the articles echo themes of recent editions, while others open up new issues and questions. As always, it is intended that this offers a source of ideas and evidence that promotes a constructive and humane approach to imprisonment.**

The first article is contributed by Anita Holm Riis, a Lecturer in applied philosophy at University of Aalborg, Denmark. It is concerned with autonomy and exclusion among Danish prisoners in education. The research included interviews with men undertaking learning inside and outside of the prison from school leaver level to degree level. The article explores the tensions that the men experienced between being a 'student' and being a 'prisoner'. This was experienced in the nature of the application, selection and supervision processes, but also in their relationships with their peers. Riis identifies that undertaking education requires an extraordinary act of will by individuals, but is often at the cost of them having to exclude themselves or limit contact with peers inside and outside of prison, in order to focus on this and develop their own sense of identity. This article is an important contribution to understanding the experience of learners and particularly highlights how the social milieu can play a wider role in supporting or impeding learning. In previous editions of PSJ, similar issues have been raised, particularly in articles on initiatives such as Learning Together, where students from universities and prisons undertake courses together, which is concerned with the social connections that can be forged through learning as much as the intellectual development. This article raises questions for practice and in particular how prison managers and educationalists can take action to build communities of learners and reinforce social support.

Professor Michael Brookes and Zebunisa Sheik, both from Birmingham City University, report the results of a qualitative research study into a public speaking club, Gavellers, delivered at the therapeutic community prison, HMP Grendon. The results revealed improvements in a number of key areas: confidence, team-working, self-esteem, perspective taking, problem solving, communication skills, improved attitudes and motivation to change. Participants therefore experienced both an enjoyable, constructive regime activity and wider therapeutic benefits. This example of a modest regime activity demonstrates that significant benefits can be accrued for individuals and can contribute to a wider rehabilitative culture in the institution.

A more unconventional approach is taken by Lucy Baldwin and Christina Quinlan from De Montfort University,

Leicester, in their reflections on women's experience of imprisonment. The article draws upon poetry, photography and quotes in order to offer a more emotionally connected and profound insight into the experience of women in prison. As Baldwin and Quinlan argue, their work offers a sense of their identities, a sense of who they think they are and what their prison experiences mean to them'. This work is an important follow up to the previous edition of PSJ, a special edition on arts in prisons. Baldwin and Quinlan offer an approach to deploying arts as a research technique and a way of nurturing dialogue within prisons.

Emily Phipps and others have contributed a scholarly medical and public health article on managing tuberculosis on prisons. As the article identifies, there is a relatively high rate of TB in England and Wales in comparison with other Western European countries and this is manifested disproportionately in prisons. This article explores an important public health issue with a sound, practical overview for those who work in prisons.

The final article is offered by Professor Martine Herzog-Evans and is an overview of the French parole and 'sentence management'. This is a valuable supplement to the recent PSJ special edition on parole. Given the controversies that parole has generated in England and Wales during 2018, and the current consideration being given to significant reform, it is valuable to draw upon examples from practice internationally.

In the review section, Professor Alison Liebling of University of Cambridge, provides an assessment of Dr Luigi Gariglio's ethnography of prison officers in Italy. Liebling's own work has included well-regarded publications on prison officers. Gariglio's work focusses on the use of force from the perspective of prison officers, a focus that Liebling suggests is unique. The review addresses the use of force, and threats of force, in contemporary prisons and how this was used historically. The review also reflects upon the nature of prison research, including the emotional impact on the researcher, the risks taken by the institution, and the dynamics between the players.

Finally, this edition closes with an interview with the prisons minister Rory Stewart, conducted by Paul Crossey, Deputy Governor of HMP Huntercombe. This interview explores the contemporary policy and operational challenges faced by prisons in England and Wales.

With such an eclectic mix of articles, reviews and interviews, it is intended that there should be something to stimulate, provoke and inspire readers. As ever, PSJ intends not only to offer these contributions as a detached intellectual enterprise, but instead to encourage better, more imaginative and more humane practice.

# Autonomy and exclusion among Danish prisoners in education

Anita Holm Riis is a Lecturer in Applied philosophy at University of Aalborg, Denmark

Completing an education while in prison requires a high degree of willpower and autonomy. Concurrently, such autonomy may be under pressure from a variety of exclusion processes that are in operation within as well as without the prison. This article focuses on the tension that emerges between autonomy and exclusion when a prison inmate embarks on an education. The central problem will be exemplified by excerpts from interviews with a number of Danish prison inmates, who are taking or have completed an education while serving time.

The background for focusing on this aspect of the educational life of prison inmates comes from a research project, which I carried out during the period of 2012-2015. Here, I conducted interviews with ten prison inmates and former inmates, visited a number of Danish prisons, spoke to prison personnel etc. in order to explore the question of how it is possible to complete an education while serving a prison sentence. In my research, especially the interviews yielded insights into how the possibilities for carrying out an education during a prison sentence are affected by the surrounding environment's responses to the educational wishes of the prisoner. The fact that inmates are excluded from the opportunities that exist in society in general is an obvious consequence of being in prison. But—as will also become apparent during the course of this article—exclusion mechanisms within the prison are similarly crucial to how and whether inmates who embark on an education manage to complete it.

Theoretically, Axel Honneth's<sup>1</sup> dialectically conceived understanding of identity played a central part in the study, because the assumption was that the ability to complete an education would also be dependent on the individual's ability to maintain an identity as a student. This theoretical approach meant that I questioned each interviewee particularly about his or her personal experience of and interpretation of concrete conditions and situations, but also about the reactions that these conditions produced from their

surroundings (as the interviewee recalled these reactions). Within Honneth's identity theory, other people's reactions are, indeed, crucial to an individual's self-perception (a point he takes from the socialpsychologist G.H. Mead). Further, this theoretical approach meant that my research of the educational conditions within the Danish prisons was designed to focus on the interaction between inmates, between inmates and prison employees as well as between the prison context and the surrounding society. The involvement of exclusion as a theme is engendered not least by this kind of dialectic thinking. If you are to regard yourself as 'a student', this requires some degree of support from the surroundings and exclusion processes normally undermine such support.

The ability to define oneself in terms of and by means of education is, moreover, a topic within education research. Concerning prison inmates, so-called 'transformative learning', wherein education 'entails changes within the identity of the learner',<sup>2</sup> is of interest, because changes within the identity of the inmate may impact on whether or not he or she will continue a life of crime. A range of conclusions from the thesis *Prison-based transformative learning and its role in life after release*<sup>3</sup> by Anne Pike will therefore act as a supplement to the analyses presented here. Within the Danish context, there is, unfortunately, no published research on transformative learning within the prison system.

In the following, the methodological approaches of the empirical study will be presented first. Next, a clarification of the concepts of exclusion and autonomy will follow. Subsequently the two concepts will play a central role in an analysis of the education strategies and possibilities of my interviewees.

## Methodological conditions of the study

In this article, excerpts from ten interviews are employed as examples in order to highlight the tension

1. Honneth A (1996) *The Struggle for Recognition. The Moral Grammar of Social Conflicts* (translated by Joel Anderson). Cambridge, Massachusetts: The MIT Press.

2. Illeris, K (2013). *Transformativ læring og identitet*. Gylling: Samfundslitteratur. (p. 67).

3. Pike, A (2014) *Prison-based transformative learning and its role in life after release*. Ph.D. thesis. UK: Centre for Research in Education and Educational Technology, Open University.

between autonomy and exclusion that arises when Danish prison inmates take up education.<sup>4</sup> My visits to some of the Danish prisons, including conversations with prison staff, have first and foremost contributed to the contextualization of the interviews themselves. The restrictions that are placed on prison inmates are, for example, sometimes experienced as unfair by the inmates, whereas the intention from the point of view of the authorities is to prioritize security above individual concerns.

Even so, the analyses presented below focus primarily on the interviewees' experiences of the challenges they have encountered while undergoing education. The ten interviewees involved in my research took different levels of education, ranging from school-leaving exams to university level. In between, A-levels, vocational training and tertiary education linked to vocational training were represented. At the time of the interviews, five interviewees were inmates and five were former inmates. Eight interviewees were men and two were women.<sup>5</sup> In order to avoid a reflection of local practise, I conducted interviews with inmates at three different prisons located in three different parts of the country. All of the interviewees had, moreover, been transferred from one prison to another and thus had experience from typically two or three different prisons (Denmark currently has 13 prisons distributed across the country). Also in terms of age I sought to attain a spread: The youngest interviewee was at the time of the interview in the mid-twenties and the oldest in the mid-fifties, while the majority were between 30 and 40 years of age. The length of their respective sentences ranged from just short of five years to more than twelve years.

The interviews were all recorded on a dictaphone. Immediately after each interview, I made extensive notes of what was said and, subsequently, I transcribed selected parts of each interview. My choice of which parts to transcribe were made on the basis of themes brought up during the interviews that stood out as significant. All of the interview citations below are

direct transcriptions (albeit obviously translated from Danish). On average, the interviews took 1 hour and 50 minutes each.

As a matter of record, my research was conducted with permission from Datatilsynet, which is the Danish information protection authority.

## Exclusion and autonomy

When human beings are prevented from partaking in groups or communities which they would like to be part of, we are dealing with what is normally defined as exclusion.<sup>6</sup> Being sentenced to prison is therefore to be regarded as a form of exclusion. One of the definitions what exclusion is that since the 90s has been cited most frequently likewise focuses on the unrealized desire for participation:

*An individual is socially excluded if (a) he or she is geographically resident in a society but (b) for reasons beyond his or her control he or she cannot participate in the normal activities of citizens in that society and (c) he or she would like to so participate.<sup>7</sup>*

A person's self-determination is obviously restricted when his or her desire to participate cannot be realized.

As is clear from this definition, self-determination is an important aspect in relation to exclusion. A person's self-determination is obviously restricted when his or her desire to participate cannot be realized. One trait that inmates may develop in connection with reduced self-determination is apathy.<sup>8</sup> Apathy can result in an undermining of the ability to make active choices. At the same time, being able to choose another course in life is a crucial factor in order to avoid reverting to a life of crime.

In the present article, autonomy is strongly connected to the ability to make reflected choices that also express a personal, internalized conviction. Historically, this understanding of the concept goes back to Immanuel Kant:

In the 1700s, Kant formulated a range of significant characteristics that describe individual

4. This obviously does not mean that the same challenges apply to every prison inmate, but my interviews may contribute to the identification issues that are relevant to consider in connection with the question of how we can help prison inmates to complete an education.

5. Currently, 7.4 per cent of Danish inmates are female (Danish Prison and Probation Service (2016) *Statistik 2016*. Report for the Danish Ministry of Justice).

6. Larsen JE (2009) Forståelser af begrebet social udsathed. In: Brandt P et al. (eds), *Udsat for forståelse—en antologi om socialt udsatte*. Copenhagen: The Danish Ministry for Social Affairs. (p. 20).

7. Burchardt T, Le Grand J and Piachaud D (1999) Social Exclusion in Britain 1991-1995. *Social Policy & Administration* 33(3): 227-244. (p. 229).

8. Zurn P and Dilts A (2016) . New York: Palgrave Macmillan. (p. 98).

autonomy. Here, autonomy is described as a precondition for making any qualified decision about anything—that is, autonomy is highlighted as an ability. Additionally, the act of choosing can, according to Kant, only be considered a genuine choice when it does not stem from inclinations.<sup>9</sup> ‘Kantian autonomy presupposes that we are rational agents whose transcendental freedom takes us out of the domain of natural causation’.<sup>10</sup> What may seem like a choice, then, may very well be a question of giving in to one’s inclinations—or, in other words: A choice, which purely concerns inclinations, does not necessarily have anything to do with actual self-determination. Kant uses the concept of self-determination synonymously with the concept of self-control, and self-control requires a well-considered rationale where the individual has thought through his or her choice in such a way as to be able to justify it rationally to others. With this in mind, for example criminal actions must be regarded as predominantly non-autonomous.

According to the psychological theorists Ryan and Deci,<sup>11</sup> who are behind some of the newest developments within self-determination theory (SDT), this aspect of justification remains central to the understanding of autonomy.<sup>12</sup> However they do not believe that it presupposes being outwith the domain of natural causations: ‘people’s autonomy lies not in being independent causes but in exercising their capacity to reflectively endorse or reject prompted actions’.<sup>13</sup> In practice, no person’s self-determination can be completely unrestricted, because human beings always enter into relations and contexts that either influence or circumscribe the choices they make. Because of this, the balance between exclusion and autonomy always constitutes a tension, which must nonetheless be contained within the individual involved.

In Anne Pike’s PhD-thesis on transformative learning among English prison inmates, motivation similarly constitutes a theme in relation to autonomy. Because autonomy is based on a considered, internalized choice, the autonomous choice can be linked to a particular type of motivation, which is not simply about achieving an external goal.<sup>14</sup> As we shall see, different reasons for wanting education may thus

be regarded as more or less autonomous depending on the underlying motivation.

The last explication of the concept of autonomy, which will be relevant in the present article, points in the direction of various degrees of autonomy. Beauchamp and Childress analyze ‘autonomous actions in terms of normal choosers who act 1) intentionally 2) with understanding, and 3) without controlling influences that determine their action’.<sup>15</sup> They emphasize that this is not a question of absolute criteria, but of grades—for example, you can have a greater or lesser understanding of a given case and you can be more or less influenced by external factors. This means that they point to a link between autonomy and exclusion exactly because exclusion must be regarded as a strong ‘controlling influence’.

In what follows, I will start by clarifying the formal requirements for pursuing education within a Danish prison. Subsequently, I will consider different types of reasons why inmates want education.

### Reasons for wanting education

As an inmate of a Danish prison, you are obliged to work 37 hours a week (this is the official standard for weekly working hours in Denmark). These hours of work may take the form of work, education and/or various forms of therapy. The inmate’s wishes are taken into consideration in each individual case when determining the distribution of the working hours. Individual circumstances, legal frames (including security) and the capacities of the prison all play a part in this decision. This means it cannot be taken for granted that the inmate’s wishes can be accommodated. If, for example, an inmate has an addiction, this can mean that education is postponed regardless of the wishes of the person in question. Likewise, the capacities of the prison school may mean that the desire for an education cannot be met.<sup>16</sup>

Seven of my interviewees never had any doubt that they wanted to obtain an education while in prison. To them it has, in other words, been a deliberate choice from the very start of their imprisonment. One of them explained it thus: ‘*I had been saying for a long time that, if I were arrested, then I’d start on an*

9. Kant I (2002) *Groundwork for the Metaphysics of Morals*; edited and translated by Allen W. Wood; with essays by Schneewind JB et al. New York: Yale University Press. (p. 32).

10. Schneewind JB (1998) *The Invention of Autonomy: A History of Modern Moral Philosophy*. Cambridge University Press. (p. 515).

11. Ryan R and Deci E (2006) Self-Regulation and the Problem of Human Autonomy: Does Psychology Need Choice, Self-Determination, and Will? *Journal of Personality* 74:6: 1557-1586.

12. Ryan and Deci also declares themselves to be inspired by post-Kantian thinking.

13. Ryan R and Deci E (2006) Self-Regulation and the Problem of Human Autonomy: Does Psychology Need Choice, Self-Determination, and Will? *Journal of Personality* 74:6: 1557-1586. (p. 1574).

14. Generally, we can distinguish between intrinsic and extrinsic motivation: ‘intrinsic motivation is related to the internal desire to engage in an activity for its own sake whereas extrinsic motivation is related to external and contextual factors’ (Pike, A (2014) *Prison-based transformative learning and its role in life after release*. Ph.D. thesis. UK: Centre for Research in Education and Educational Technology, Open University. (p. 39).

15. Beauchamp TL and Childress JF (2009) *Principles of biomedical ethics*. New York: Oxford University Press. (p. 59).

16. Riis AH (2016) Indsat under uddannelse – mulighed og kamp. *Nordic Journal of Law and Justice* 39(1): 73-87.



education—just to spend the time on something sensible’ (former inmate 2013). Several other interviewees expressed in similar ways how taking an education while serving time is all about spending one’s time prudently. This concurs with a survey conducted in 2006 wherein all Danish prison inmates, who were in education, were asked to give their reasons for choosing this (the response rate in the survey was 69.5 per cent).<sup>17</sup> Here, rationality and usefulness constituted the most important factor among a range of reasons for embarking on an education (73.1 per cent regarded this as very important).

In Anne Pike’s investigation of English prison inmates in education, she notes that the very concept of ‘usefulness’ is unclear and may refer to a great many explanations ranging from ‘externally-motivated, prison-focused, reasons to the more internalised personal development and a desire for knowledge for its own sake’.<sup>18</sup> Exactly this distinction between what is externally motivated and what is personal and internalized is a theme discussed by Koudal in terms of the threshold between official and unofficial explanations for why education is a good thing.<sup>19</sup> As we will see, this may also involve a boundary between externally expected reasons and personal reasons where the personal reasons remain unofficial or hidden. My interviewees expressed how prison culture promoted specific types of reasons, which were not always concurrent with the personally internalized and *autonomous* reasons.

Another type of reason points in a very different direction. The wish for education cannot be considered independently of the fact that every prison inmate is, as mentioned, obliged to spend 37 hours a week on work, education and/or therapeutic treatment. A preference for one option may therefore stem from a wish to avoid something else. One of the inmates I interviewed expressed it thus: ‘*When I came here [he refers to the prison school], it was mainly because (...), you know, I didn’t want to work (...) I felt that that didn’t make any sense*’ (inmate 2014). The interviewee goes on to describe the work he was expected to carry out in the

prison as monotonous and boring—in this case, the work entailed packing work.

The latter type of reason has an ambiguous status. On the one hand, this may be the expected type of reason *among the prison inmates*. On the other hand, this type of reason may contribute to a suspicious attitude towards what motivates prison inmates to choose education. It may be regarded as a way of cheating in the sense that the reason for choosing education is founded in a wish to avoid something—at least when seen from the point of view of the system.

One form of prejudice, which follows from the Kantian concept of autonomy, concerns what *ought* to motivate people in the choices they make. Seen through Kantian eyes, the carrying out of criminal acts reveals that a criminal is allowing him or her self to be governed by inclinations (including impulses and instincts), and, for this very reason, one may argue that the criminal abandons his or her autonomy. However, the question is whether the person who has committed a crime also subsequently acts in disregard of the reasoned reflection that characterizes this understanding of autonomy. One of the themes that continuously turned up during the ten interviews with inmates and former inmates

One form of  
prejudice, which  
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autonomy, concerns  
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motivate people  
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they make.

concerned becoming categorized as a person who is always suspected of attempting to get away with as much as possible in as easy a manner as possible. Nine out of ten interviewees experienced becoming subjected to this perception by others and explained that this also entailed a suspicious attitude towards their motivation for wanting education.

Anne Pike shows in her thesis that the thresholds between different types of motivation are not necessarily sharp.<sup>20</sup> Finding direct motivation in for example the professional substance of an education—something, which is not founded in external factors, such as wanting to avoid boring work—may thus not necessarily be present from the start. Research on autonomy and education often focuses on how to promote autonomy or the capacity for autonomy through the education system or through teaching,

17. Koudal P (2007) Indsatte i danske fængsler. Uddannelse og uddannelsesønsker. Report for the Danish Prison and Probation Service. (p. 7).

18. Pike, A (2014) Prison-based transformative learning and its role in life after release. Ph.D. thesis. UK: Centre for Research in Education and Educational Technology, Open University. (p. 135).

19. Koudal P (2010) Uddannelse i fængslerne. Hvad siger de indsatte? En interviewundersøgelse. Report for the Danish Prison and Probation Service. (p. 35).

20. Pike, A (2014) Prison-based transformative learning and its role in life after release. Ph.D. thesis. UK: Centre for Research in Education and Educational Technology, Open University. (p. 269).

because education is often seen as a means to develop a person's ability to make reflective choices.<sup>21</sup> Because of this, it is not necessarily conducive to expect certain forms of motivation before entering an education if the aim is that the inmate should alter his or her behaviour in the long run.

### Education, aim and purpose

One of the former inmates (interviewed 2013) had taken an A-level education during his sentence. The application procedure in itself was slow and it took a number of years for him to be able to start his studies in earnest and, subsequently, they took the form of self-study—that is, he was allowed to study in his room while most of the other inmates were at work or took part in treatment programmes. The exams were also conducted in the prison. In his response to my questions about how other persons at the prison reacted to his education, he focused especially on the prison guards. From them he experienced a variety of reactions, ranging from a certain amount of indifference to positive as well as negative attention: *'To begin with, I was (...) just one of all sorts of others who were also in education'*. When he begins to attain extraordinarily good results in his exams, the attitude changes: *'At first they don't believe it (...), then they begin to pay a bit of attention to it (...) and begin to ask about it'*. The former inmate recalls this questioning as an ambiguous affair. On the one hand, it was an expression of some sort of interest, *'and in that sense you can say that they [the prison guards] also were a support'*, he says. On the other hand, there were different ways of asking: *'there were also (...) some slightly negative characters [among the prison guards]'*. These 'negative characters' would, for example, ask: *'What's it you want with that education? Where is it you want to work?'* The hidden premise of such questions is the notion that education only makes sense if it is a realization of the wish to get a job. Because it is widely known that it is more difficult to get a job if one has served a prison sentence, the implication is that, as a prison inmate, there is no purpose to taking an education.

... there is an ambiguity in relation to what really motivates an inmate to pursue an education and what he or she presents outwardly as motivating factors.

However, reasons to do explicitly with, for instance, professional interest are not valid in the prison context if we are to believe an inmate (2015), who explained that there is an ambiguity in relation to what *really* motivates an inmate to pursue an education and what he or she presents outwardly as motivating factors. He focuses especially on his fellow inmates' expectations to his reasons. Also in this case, a variety of negatively slanted questions is mentioned: *'Who the Hell is going to give you a job? (...) What the heck are you doing!?'* Gradually, he put together a response consisting of: *'I'm doing this to pass the time'*. This became his response primarily because he, according to his own words, *'couldn't be bothered discussing it'*. In other words, he did not want to state the real reason, because he expected that this would lead to a discussion wherein he would have to justify his actual standpoint. He explains to me that his aim was not to get just any education, but that he had a *specific* wish to pursue a specific education (university level) in which he had a long-standing professional interest.

Having to explain away one's real motivation in order to legitimize taking an education is confirmed by a third example from the interviews where a former inmate (2014) explains that, if you have ambitions in the direction of a higher level of education than what the prison can offer,<sup>22</sup> you may be met with comments such as: *'Do you really think that you can do that! What the Hell are you talking about?'*. The same person gives examples of different types of explanations, revealing that it is neither interest in the education itself, nor the hope of acquiring a job that makes the studies attractive to him, but the fact that other benefits can be obtained: *'Because then I can [mentions various examples], you know, you find some sort of excuse (...)'*. Taking an education in order to avoid work thus becomes an accepted explanation *among the inmates*, while it is *not* an accepted explanation among the *prison employees*. Nevertheless, the suspicion that inmates primarily harbour the agenda of avoiding work may appear to the employees to be confirmed because they obviously also become aware of the way in which inmates argue when it comes to education. During the same part of the interview, the interviewee emphasizes an important aspect of this complex navigation between

21. Liu W, Wang J and Ryan R (eds) (2016) Building Autonomous Learners. Perspectives from Research and Practice using Self-Determination Theory. Singapore: Springer. (p. 1).

22. The prison school normally offers 9<sup>th</sup> and 10<sup>th</sup> year of the common Danish school education. Some prisons offer A-level classes and components of various vocational educations.

explaining and explaining away. The interviewee does not believe that the opinions expressed by the other inmates are genuine. *'I think a lot of them would like to do it [i.e. take an education] (...) but there is a culture that says, well, then we'll cheat the system'*. The former inmate also recalls having been a representative of that culture: *'I thought that way when I was at the school [he refers to the prison's own school], great, you know, I'm gonna cheat them, I don't give a damn'*.<sup>23</sup> Later on in life, the very same person, incidentally, became a dedicated university student.

As a prison inmate in education, one may thus feel compelled to express oneself within a discourse, which implicitly encourages explanations that emphasize selfishly calculated motivation. That, at least, is the case among the inmates. But also questions focusing on job-attainment reveal important aspects of the discourse: Because we know that people who have a prison sentence behind them experience greater difficulties when it comes to getting a job, those who explain their desire for education by means of job-attainment are caught out by a logic, which in principle renders education less meaningful for them. When an explanation emphasizing, for instance, a professional interest is not valid either, the motivation for wanting education must remain hidden. In this context, it is important to keep in mind that prison inmates are *obliged* to live together. Outside of prison, people can to a large extent choose to partake in those environments that support their interests—in prison, you are forced to make your way in the environment that is given to you.

All in all, the educational discourse within the prison does not exactly support autonomous explanations for wanting education, when the accepted explanations are, so to speak, assigned to you by the surroundings.<sup>24</sup> Even though my interviewees seemed to be fully aware of the fact that they adjusted their explanations to accord with points of view that differed from their actual reasons for going into educate, one

can easily imagine how inmates with fewer personal resources might develop an identity that matches the 'prison inmate discourse'. As mentioned, the theoretical point of departure of my research was inspired by Axel Honneth's dialectical thinking. Seen from this perspective, the way in which human beings interact with different environments is to some extent always decisive for their self-perception. The question is whether you react with surrender or resistance.

Moreover, larger empirical studies support the Honnethian thesis about the important role played by social context when it comes to the formation of identity. One study conducted among different groups of South African youths, for instance, showed that their ideas about the future and thus also about their own 'possible identities' were strongly influenced by their assessment of the possibilities that were open to the social grouping to which they regarded themselves as belonging.<sup>25,26</sup>

The real surprise with regard to my interviewees was the fact that they entered into education *in spite* of the dynamics described here. They never gave in to the 'identity pressure' of the social context framed by the prison. But, as we shall see in the following, they also used a strategy of withdrawing from other inmates. Seven out of the ten interviewees gave examples of how they gradually began to shield themselves against the prison discourse by isolating themselves or by avoiding the company of other inmates.<sup>27</sup> As one inmate (2014) puts it: *'I'm not here to make friends. In the five years I've been in prison, I have met enough criminals (...) that's a different talk and I'm sick of that talk (...) I'm so fed up listening to them...'*

### Autonomy and exclusion

The fact that we, as human beings, are set into relations to other individuals and that we are part of specific environments and societies does inevitably

23. Jones & Berglas have referred to this phenomenon as 'self-handicapping', which basically means that, in order to protect oneself against defeat, situations that might lead to defeat are avoided (Berglas S and Jones EE (1978). Drug Choice as Self-Handicapping Strategy in Response to Success. *Journal of Personality and Social Psychology* 36: 405-417). In the context of the Danish education system, this phenomenon has been documented by, *inter alia*, Gillam, who describes school pupils' negative attitude to school and learning as 'reversed social capital' (Gillam L (2008) Balladens fornuft. *Ungdomsforskning* 1(2): 25-35).
24. Goodman's studies of Californian prison inmates show, by the way, that in the prison context it may not be possible to avoid certain identity-related designations if the prison system is coordinated by means of a categorization of 'types'. In a situation where the prison discourse is saturated with such categorizations, it is not easy to place oneself in a category that stands out as irregular within that discourse (Goodman P (2008) It's Just Black, White, or Hispanic: An Observational Study of Racializing Moves in California's Segregated Prison Reception Centers. *Law & Society Review* 42(4): 735-770).
25. Masinga N and Dumont K (2018) The motivational implications of adolescents' school-oriented possible identities in a social change context. *Journal of Applied Psychology* 48: 284-290.
26. Recidivism statisticians are, among other things, able to tell inmates that they – as a group – are at a significant risk of lapsing back into crime after completing a prison sentence. If you look at the Danish relapse rate for convicted criminals, who receive a new sentence within two years of their release from prison, recidivism is at about 30% (Danish Prison and Probation Service (2016) *Statistik* 2016. Report for the Danish Ministry of Justice).
27. Out of the ten inmates whom I interviewed, eight shared the experience of perceiving many of their fellow inmates as people with whom they had very little in common. It was mentioned, for example, that conversations in the common rooms often centred on crime. In Koudal's Danish survey, it is also noted that *'often, what the inmates have to talk to one another about are things, which they already have in common: Crime and grumblings about the system. Additionally also sex and women'* (Koudal P (2010) *O* Report for the Danish Prison and Probation Service, p. 35).

influence us. However, being autonomous means that, although this is the case, we do not always allow the context to determine our choices—at least, our explanations for choosing as we do must come ‘from ourselves’ in such a way that they do not exclusively reflect an adjustment to the premises dictated by our surroundings. Explanations must be thought through by means of personally internalized convictions. Here, Beauchamp and Childress’ notion of graded autonomy becomes relevant—because you can ask to what extent it is possible for individuals to remain independent of ‘controlling influences that determine their action’.<sup>28</sup> Within the prison walls, the above-mentioned discourse is an example of just such a ‘controlling influence’. If you do not adhere to the discourse, this has ramifications in the form of, for example, whom you can and cannot talk to—and that may cause you to adjust. Another possibility is, as mentioned, to avoid the discourse by limiting contact to those inmates who represent that discourse. ‘Self-exclusion’ is therefore not necessarily a freely made choice. Here, this sort of exclusion is, rather, a consequence of a very different choice, namely choosing to become a student.

My research generally shows that, for the interviewees, it has been a real struggle to obtain an education. Many of them had to insist on their wish over a sustained period of time before it became possible for them to start school or embark on an education. Aspects such as a lack of help and guidance as well as prolonged application procedures and sometimes rejected applications have been highlighted as frustrating barriers that prevent inmates from starting an education.<sup>29</sup> It is one thing to have a desire for something, but it is a completely different thing to hang onto that desire when you encounter resistance. It requires a deliberate choice, which in turn requires that you identify with your choice. But defining yourself as ‘someone in education’ can be difficult in an environment where you are first and foremost defined as ‘an inmate’. In conjunction with my visits to various Danish prisons, I asked a number of employees at the prison schools whether they regarded the inmates in education as ‘students’. The answer was no, and in one

case the person I asked referred to the safety-risk it might pose if you forget that the inmates are exactly inmates.<sup>30</sup>

Seven out of the ten interviewees spoke of a student life that was in several ways lonely and of choosing to limit contact to other inmates in favour of focusing on the studies. Those who undertook self-study did, as mentioned, isolate themselves with their studies, either in a specially designed study-cell or in their room, although they actually had the opportunity to use the schoolrooms. None of them tried to hide the fact that it was hard work to maintain the self-discipline it requires to work alone, and several of them noted the cost of this isolated life in terms of their interaction with other people. One former inmate (2012) said thus: ‘*I’ve become very sensitive when it comes to other people (...) something has happened in my way of dealing with other people*’. The same former inmate noted the importance of having had two mentors to help complete the studies: ‘*If I hadn’t had those two people (...) then it would have been very, very difficult for me*’.

### Mentoring and student identity

Having a mentor or some other person, who has an insight into one’s course of education, is emphasized by the interviewees as extremely important.<sup>31</sup> This may be a professional from the outside or it may be a person who has a close relation to the inmate in question. In a few cases, the spouse is highlighted as a significant support and motivator during the education.<sup>32</sup> But often, relations to family members are associated with separation and deprivation in such a way that inmates are not able to obtain support there. Instead, a number of interviewees speak of building up close relations to a mentor. This becomes clear when, for instance, they refer not just to ‘a mentor’, but to ‘a personal mentor’, and a number of them also remark that they have continued to stay in touch with their mentor after having completed their education. Denmark has a variety of mentor-systems, for example the Danish branch of the International Committee of the Red

28. Beauchamp TL and Childress JF (2009) *Principles of biomedical ethics*. New York: Oxford University Press. (p. 59).

29. Riis AH (2016) Indsat under uddannelse – mulighed og kamp. *Nordic Journal of Law and Justice* 39(1): 73-87.

30. In everyday language, there is unfortunately often a direct link between the term ‘inmate’ and the term ‘criminal’. One of the former inmates, who participated in my interviews (2014), told me how a prison guard described him as a ‘criminal’. But this particular inmate had, in fact, decided to never again commit crime and thus felt extremely disparaged.

31. Even one of the former inmates, who did not in other ways keep in touch with relatives, mentioned the importance of notifying relatives of exams that were passed. This shows how crucial it is to be regarded as ‘someone in education’. This, moreover, touches ‘upon the implicit tension between being an ‘inmate’ and being ‘in education’’. The tendency to pay greater attention to a person’s status as convicted or previously convicted is considerable. Winning another designation for oneself also matters greatly to one’s self-perception (Vold GB, Bernard TJ. and Snipes JB (2002) *Theoretical Criminology*. New York: Oxford University Press, p. 210; Reuss A and Wilson D (2012) *The Way Forward*. In: Wilson D and Reuss A (eds), *Prison(er) Education. Stories of Change and Transformation*. Sheffield: Waterside Press, pp. 172-181, p. 177/178).

32. The article *A Life-Course View of the Development of Crime* discusses and documents different family-related reasons for persistence with and desistance from crime. An interesting point in the study by Sampsons and Laub is that marriage represents a ‘potential causal force in desistance’ (Sampson R and Laub J (2005) *A Life-Course View of the Development of Crime*. *ANNALS, AAPSS*, 602, November: 12-45, p. 36).

Cross has an arrangement whereby people (often students) can help an inmate with his or her education. Also prison inmates can become mentors, but none of my interviewees had mentors among their co-inmates. Some have helped other inmates with their studies, but this has happened on their own initiatives and without the framework of obligation that comes with official mentor relationships. Pike's research shows that organized mentor relationships between inmates can have an important, identity-confirming function for both the person who is the recipient and the person who is the mentor: 'It provided valuable mentoring for the less able learners but also the mentors themselves gained hugely from their responsible role, providing them with self-efficacy, self-esteem, self-confidence, pride and a sense of belonging'.<sup>33</sup>

Receiving support to complete an education is obviously important and, in the case of my interviewees, this support often comes from individuals outwith the prison. Nonetheless, one inmate (2014) returns repeatedly during the interview to a named member of the prison staff (not a prison guard), who represents a significant support to this inmate's educational project. Because of this, I ask about the difference between support that comes from within the prison and support that comes from the outside. I receive the following response:

*What [support] I get from here is hugely important. They are much more a part of what you do—they are more involved in it (...) The family really can't quite appreciate what it's like to be in prison—though of course they can tell from looking at me that it's no fun, but really, they don't know what it actually entails.*

By 'support from here' the inmate refers to the named individual mentioned above and to another member of the prison staff who was appointed as mentor to this inmate.

Pike's research shows that organized mentor relationships between inmates can have an important, identity-confirming function for both the person who is the recipient and the person who is the mentor.

The struggle to maintain an identity as a student in an environment where a completely different set of categorizations colour the daily routines of interacting with and referring to one another emphasizes the importance of being able to strengthen one's self-image through individuals, who represent values and opinions that relate positively to the notion of taking an education. In theory, an identity that is not supported by others is difficult to maintain, because human beings need affirmation from others regarding the things we do.<sup>34</sup> In this connection, one of the former inmates (2012) pointed to the decisive importance of 'this thing about having, maybe for the first time in some people's lives, someone who sees the potential'. In that context, autonomy defined as the ability to determine for oneself is, in other words, not an ability that is detached from the interplay between individual and surroundings. Both the negative influence in the form of impacts against which one wishes to shield oneself by means of self-exclusion and the positive interest that helps one to insist on one's choices are examples of this. Thus, autonomy may be supported as well as undermined by reactions from the surroundings.

One of the options given to Danish prison inmates, when they have served the main part of their sentence, is to apply for an education-pass. If their application is met, this means that they will be allowed to leave the prison in order to take part in education outside of the prison. In this way, they get the opportunity to become part of an actual educational environment. In the next section, we will look at what this may mean to them.

### Student life outside of prison

Having an education-pass means, more specifically, that you are allowed to take part in the scheduled classes of a state-recognized education. Since many educations operate very much in interplay with study-groups established by the students themselves as well as with other sorts of 'social binding material', this means that prison inmates with an

33. Pike, A (2014) *Prison-based transformative learning and its role in life after release*. Ph.D. thesis. UK: Centre for Research in Education and Educational Technology, Open University. (p. 180).

34. Honneth A (1996) *The Struggle for Recognition. The Moral Grammar of Social Conflicts* (translated by Joel Anderson). Cambridge, Massachusetts: The MIT Press.

education-pass can only take a limited part in the educational environment itself, because they are restricted to the explicitly teaching-related components of the education. This causes at least two problems: Firstly, a considerable part of the development of a person's identity as a student happens in the social interaction with other students;<sup>35</sup> secondly, it may arouse wonder among the other students if someone does not take part in the more extensive study-related and social life. The latter is especially relevant in cases where inmates do not want to tell their fellow students that, actually, they are prison inmates. To all of my interviewees, the ways in which the surroundings have reacted to their criminal past has constituted a substantial theme. To some, it is simply an impossible thought to be open about their past. To others, it has been a question of waiting a certain amount of time before telling other students about their past. It was important to them that they were given the opportunity to initially introduce themselves as the people they are without being categorized as 'that guy from the prison' (inmate 2014). Among those who initially chose to remain completely silent about their background, a few have experienced being unmasked because others knew about their background, and one person felt pressured to tell the truth at an earlier point than intended.

One last example from one of the inmates illustrates this issue rather well. This inmate (2014) had no intentions of telling the other students about his background: *'They ask where you live, right (...) alright, well, I live with my family. Which is what I also did'* [the inmate is referring to weekend-passes from prison]. He continues: *'Sometimes you feel like just getting up in front of everyone and saying: 'You know what? Let me tell you something'. Because you feel kind of, that because you're not [pause]—you're evading the truth then you feel like you're running around telling lies—and that doesn't feel good, you know'.*

The paradox in this situation is that the very designation 'inmate' in a way becomes the focus while, at the same time, it becomes the one designation that cannot be used. Thus, having an education-pass becomes something that makes it very clear to the inmate that he or she is exactly that: an inmate. Inside of the prison, you differ from the others by being a student. Outside of the prison, you differ by being an

'inmate'. In other words, this means that the exclusion that may occur in relation to taking an education in the prison has a tendency to follow the inmate outside of the prison, albeit in a different constellation.

### Exclusion, autonomy and education— concluding remarks

The ten inmates and former inmates, who were interviewed as part of my research and whose statements have been used to draw examples from, had all completed at least one exam while serving their sentence and several had completed a full education. This means that the interviewees belonged to a group we might refer to as 'resourceful inmates'. I have not in

this article gone into details about where, on a personal level, such resources come from, except that I have shown how the surroundings may support or fail to support the education wishes of inmates.<sup>36</sup> Mostly, the interviewees themselves describe it as pure willpower, but clearly, this willpower or autonomy needs to be somehow encouraged and aided. When directly asked how it was possible to go through with the exams, one inmate (2014)

answers without any hesitation: *'That was sheer will; that was drawing on my previous experience'.*

It requires willpower and strength to complete an education in an environment that does not support one's educational project. When different exclusion mechanisms simultaneously complicate this project, the challenge is anything but lessened. The notion of exclusion is often employed in relation to socially deprived groups. But in this case, it is actually a—seen from *inside* of the prison—strong group, which is excluded. The exclusion happens *inter alia* by means of the discourse within the prison. A countering move by a resourceful inmate may take the form of self-exclusion but, as mentioned, such self-exclusion is not necessarily a freely made choice. It is, rather, a solution such inmates may feel forced to resort to in order to complete an education. One should imagine, then, that obtaining a pass for education outside of the

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35. Ulriksen L. (2009) The implied student. *Studies in Higher Education* 34(5): 517-532.

36. Pike's thesis treats much more thoroughly the phenomenon of 'resilience', which she associates with 'inner strength' (Pike, A (2014) *Prison-based transformative learning and its role in life after release*. Ph.D. thesis. UK: Centre for Research in Education and Educational Technology, Open University, p. 187).

prison, and with that the opportunity of becoming included in new educationally oriented networks, might alleviate the situation. But in actual fact, this continues to make it clear to such inmates that they differ from everyone else: The fear of being stamped as a prison inmate influenced all of the interviewees, who had obtained an education-pass, in terms of how they interacted and communicated with their fellow students. In this way, the exclusion from society that prison inmates are subjected to regardless does not operate only within the prison walls—it continues to cling to inmates when they move outside of the prison.

If it is possible to grade autonomy, then an extraordinarily strong degree of autonomy is required of those inmates who wish to obtain an education, because maintaining this choice is challenged by what Beauchamp and Childress call 'controlling influences'. Paying attention to the fact that those inmates, who insist on taking an education, do not constitute the majority of prison inmates reveals an important question

that needs to be asked regarding the rest of the inmates: How can you motivate them to take an education when the prison discourse undermines such motivation? In addition to this, opposing the discourse entails an autonomous choice, and it is exactly the ability to make your own choices that suffers when you are imprisoned, because your latitude is restricted and many decisions are made for you. Given the fact that maintaining autonomy is, moreover, an important requirement for being able to partake in society once the prison sentence has been served, we need to pay more attention to the link between autonomy and exclusion.

Although the possibility of taking certain kinds of educations exists within the Danish prisons, Denmark currently has only two prisons with genuine educational departments where inmates in education are living together.<sup>37</sup> According to the Prison Service's own records a total of 42 inmates currently live in such departments. The total number of prisoners in Denmark averages some 3400 individuals.<sup>38</sup>

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37. 'The educational department at Nyborg Fængsel houses 16 inmates, who live together. This department was established some years ago as a trial, while a similar department was established at Søbysøgård, housing 26 individuals, in order to improve the opportunities of prison inmates to remain in and complete an education while serving a sentence' (The Danish Prison and Probation Service's website on February 2nd, 2018. Available at: <http://www.kriminalforsorgen.dk/Nyheder-19.aspx?M=NewsV2&PID=18&NewsID=1830>)

38. In 2016, the number of newly convicted persons entering prisons and county gaols amounted to 11.175 persons. Due to many short sentences, however, the prisons and county gaols housed only on average 3.421 persons per day (Danish Prison and Probation Service (2016) *Statistik 2016*. Report for the Danish Ministry of Justice, p. 15).

# The Therapeutic and Regime Benefits of the Gavelliers Club at HMP Grendon

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Evaluations of custodial art-based projects have indicated improvements in prisoner well-being, perspective-taking, self-esteem and self-confidence. One art-based project that had not been previously appraised was the Gavelliers Club at HMP Grendon. While this was introduced as a 'public speaking' regime activity, given that it takes place within a therapeutic community prison, could there also be wider therapeutic benefits? Twelve prisoners and members of staff were interviewed in a study designed to begin to explore this question. Results revealed improvements in a number of key areas for those who participated in the Gavelliers Club: confidence, team-working, self-esteem, perspective taking, problem solving, communication skills, improved attitudes and motivation to change. Gavelliers Club participants therefore experienced both an enjoyable, constructive regime activity and wider therapeutic benefits. These improved attitudes, increased self-awareness and enhanced interpersonal skills enriched community relationships and enabled participants to address better their treatment targets.

## Effectiveness of Offender Programmes and Activities

Recent debates on the effectiveness of treatment programmes began in 1974 with the contention that 'nothing works'.<sup>1</sup> This led to practitioners and academics wanting to demonstrate that an offender's behaviour can be changed. Following numerous meta-

analysis<sup>2,3</sup> programmes addressing anger management, cognitive reasoning deficits, substance misuse, sexual and violent offending were found to be effective.<sup>4</sup> These were all predominantly based on a manualised, skills oriented, cognitive-behavioural approach<sup>5</sup> utilising the Risk Need Responsivity (RNR) principles of offender rehabilitation<sup>6</sup> where the success or effectiveness of any intervention depended on the extent to which it focuses on an offender's risk, need, and responsivity. The higher the risk, the more suitable an offender was considered to be for a treatment programme that addressed why an offender had committed their crimes provided it was also delivered in a way that was responsive to that offender's learning styles. However, as the latest evaluation of the HMPPS sex offender treatment programme has indicated,<sup>7</sup> offending behaviour may not be reduced and may even be greater in certain respects, when compared with those who did not engage in this programme. Active engagement and a focus on the specific needs and deficits of programme participants is integral to treatment success, as offender engagement is an essential yet challenging ingredient in offender rehabilitation.<sup>8</sup> Some offenders may also feel reluctant to accept responsibility for their offending behaviour and resist admitting the need to change while others, although admitting the need to change, lack the capacity to implement these intentions. This can be due to a number of factors including wanting to avoid feeling ashamed, fear of embarrassment and being unable to take a different perspective in life.<sup>9</sup>

Offending behaviour programmes are however not the only means to assist offenders reduce their offending behaviour. Art-based projects can be

1. Martinson, R. (1974) 'What works: questions and answers about prison reform', *Public Interest*, 35, 22–54.
2. Losel, F. (1995). Increasing consensus in the evaluation of offender rehabilitation: Lessons from recent research syntheses. *Psychology, Crime and Law*, 2, 19-39.
3. Joy Tong, L. S., & Farrington, D. P. (2006). How effective is the reasoning and rehabilitation programme in reducing reoffending: A meta-analysis of evaluations in four countries. *Psychology, Crime & Law*, 12, 3-24.
4. For reviews of these and similar programmes see Craig, L.A., Dixon, L., & Gannon, T.A. (2013). *What works in offender rehabilitation: An evidence based approach to assessment and treatment*, Chichester: Wiley-Blackwell.
5. Hollin, C.R., & Palmer, E.J. (2006). *Offending behaviour programmes: Development, application, and controversies*. Chichester: Wiley.
6. Bonta, J. & Andrews, D.A. (2017). *The psychology of criminal conduct (6th ed.)*. London: Routledge.
7. Mews, A., Di Bella, L. & Purver, M. (2017). *Impact evaluation of the prison-based Core Sex Offender Treatment Programme*. Ministry Of Justice Analytical Series. [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/623876/sotp-report-web-.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/623876/sotp-report-web-.pdf)
8. McMurran, M., & Ward, T. (2010). Treatment readiness, treatment engagement and behaviour change. *Criminal Behaviour and Mental Health*, 20, 75-85.
9. McMurran, M. (2002). *Motivating offenders to change: A guide to enhance engagement in therapy*. Chichester: Wiley.



of assistance too.<sup>10,11</sup> Such activities can include dance, music, creative writing and can be delivered therapeutically, as part of an educational programme or as a creative activity.<sup>12</sup> These activities can take place in all types of prison establishments, secure mental health settings and, in the community. Examples of evaluated arts based activities in forensic settings include Good Vibrations, Inspiring Change, Music in Prisons and Fine Cell Work.

Good Vibrations is a week-long activity aimed at empowering and inspiring offenders' creativity through engagement in Indonesian gamelan drumming music. Evaluation results showed a significant increase in engagement and openness to wider learning, improvements in listening, communication and social skills, social interactions and relationships with prison staff and enhanced emotional and psychological well-being.<sup>13</sup> Involvement with Good Vibrations has also been a stepping-stone for further education. This was also the case for the Inspiring Change arts intervention in a Scottish Young Offenders Institute<sup>14</sup> with results additionally showing an improvement in physical/mental well-being, literacy skills, relationships with significant others, self-awareness, self-confidence and self-esteem.

The Music In Prisons (MIP) initiative, managed by the Irene Taylor Trust, is also a week-long intensive innovative music project whose purpose is to enhance educational and rehabilitation opportunities for prisoners.<sup>15</sup> Participants work together as part of a band, creating music in order to perform in front of other prisoners, staff and outside visitors. An extensive evaluation of MIP initiative<sup>16</sup> found that those who took part in the project felt that participation increased their confidence to engage in education and intellectual competencies. Participation also had a positive impact on the prisoner's well-being, learning capacity, relationships and motivation.

Another arts-based regime activity is Fine Cell Work (FCW).<sup>17</sup> This initiative engages prisoners in creating craft products such as cushions, rugs, quilts that are then sold to designers and companies outside the prison. An evaluation<sup>18</sup> utilizing in-depth interviews and focus groups with 22 prisoners, found that in addition to teaching practical skills, participation in FCW helped pass time productively, acted as a catalyst for reflection, was therapeutic and helped reduce levels of anxiety and depression. This was achieved through encouraging calmness, stillness and improving the ability to concentrate. Prisoners were provided with an opportunity to gain respect and a sense of achievement for their work. This increased their self-esteem and assisted them in becoming more resilient and better problem solvers. Participants were also provided with opportunities to manage teams, develop people and coordinate the logistics of supply and demand of materials. FCW additionally provided participants with a positive activity which they were able to continue with upon their release in addition to this being a positive activity which assisted prisoners during their imprisonment.

Participation in FCW helped pass time productively, acted as a catalyst for reflection, was therapeutic and helped reduce levels of anxiety and depression.

#### The Gavelliers Club at HMP Grendon

An activity that has yet to be evaluated is the Gavelliers Club at HMP Grendon. This was established as a regime activity and requires participants to speak on a particular topic given to them for between one and five minutes. Participation in the Gavelliers Club is voluntary, though attendance may be encouraged as part of the therapeutic process to assist in the addressing of social/interactional skill deficits; for example, an inability to express oneself freely in the presence of others.

The Gavelliers Club aimed to meet fortnightly with between eight and ten participants. Each attendee is assigned a specific role (e.g., the president, toastmaster, time keeper) and at the beginning of each meeting two

10. McNeill, F., Anderson, K., Colvin, S., Overy, K., Sparks, R., & Tett, L. (2011). *Inspiring desistance: Arts projects and what works*. <http://blogs.iriss.org.uk/discoveringdesistance/files/2011/09/McNeill-et-al.-2011-Inspiring-Desistance.pdf>
11. Johnson, H., Keen, S. and Pritchard D. (2011). Unlocking Value. <http://www.thinknpc.org/publications/unlocking-value/>
12. Burrowes, N., Disley, E., Liddle, M., Maguire, M., Rubin, J., Taylor, J., & Wright, S. (2013). *Intermediate outcomes of arts projects: A rapid evidence assessment*. [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/254450/Intermediate-outcomes-of-arts-projects.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/254450/Intermediate-outcomes-of-arts-projects.pdf)
13. Henley, J., Caulfield, L.S., Wilson, D., & Wilkinson, D.J. (2012). Good Vibrations: positive change through social music-making, *Music Education Research*, 14, 499-520.
14. Anderson, K., & Overy, K. (2010). Engaging Scottish young offenders in education through music and art. *International Journal of Community Music*, 3, 47-64.
15. The Irene Taylor Trust. (2016). Music in prisons. <https://irenetaylortrust.com/what-we-do/our-projects/music-in-prisons/>
16. Cox, A., & Gelsthorpe, L. (2008). *Beats & Bars, Music in prisons: An evaluation*. <http://www.artsevidence.org.uk/evaluations/beats-bars-music-prisons-evaluation/>
17. See [http://www.finecellwork.co.uk/about\\_us](http://www.finecellwork.co.uk/about_us) for more details
18. Browne, A., & Rhodes, P. (2011). *Stitching a future: An evaluation of fine cell work*. [http://www.finecellwork.co.uk/assets/0000/2418/Fine\\_Cell\\_Work\\_evaluation\\_Short\\_version.pdf](http://www.finecellwork.co.uk/assets/0000/2418/Fine_Cell_Work_evaluation_Short_version.pdf)

participants are randomly selected and asked to research a specific topic, which they then present at the next meeting. These two participants are then referred to as the main topic speakers, whilst the remaining members are referred to as table topic speakers. The table topic speakers are invited to the podium to speak on a topic, which is randomly assigned to them whilst standing on the podium. At the end of each speech, feedback is given. Following the end of the session, the best speakers are rewarded with a prize. Roles are rotated at every meeting to ensure everyone has the opportunity to be fully involved in all aspects of the Club.

Given that HMP Grendon operates as a series of democratic therapeutic communities, where all aspects of the regime are an integral part of the therapeutic process,<sup>19</sup> it is not known if involvement in the Gavelliers Club has a 'therapeutic value' in addition to any other benefits participation in the Club may offer. HMP Grendon's therapeutic regime is based on the work of Maxwell Jones and further developed at Henderson Hospital during the 1950s.<sup>20</sup> HMP Grendon is the only prison in the United Kingdom that operates solely on the philosophy of a democratic therapeutic community, where prisoners, as residents, take an active role in the practicalities and decisions which are made in the running of their community.<sup>21</sup>

This study was therefore designed to understand better how the Gavelliers Club contributed to Grendon's therapeutic regime and to determine what benefits there may be for those participating in the Gavelliers Club. Eight Grendon residents (five of whom had participated in the Gavelliers Club) and four staff members agreed to be interviewed. A semi-structured questionnaire schedule was utilised to elicit views and insights of the impact of the Gavelliers Club within HMP Grendon. Interview transcripts were analysed using Thematic Analysis<sup>22</sup> and four overarching themes were obtained: skill improvement, attitude change, motivation to change and promoting quality of life.

## Theme One — Skill Improvement

The skill improvement theme comprised five sub-themes: communication skills, improved confidence, problem solving, perspective taking, team working skills and self-esteem. These were all concerned with the benefits gained from participating in the Gavelliers Club. No negative impacts were identified.

### 1) Communication Skills

The first sub-theme which emerged under 'skill improvement' was communication skills. This sub-theme looked at participant's views regarding improvements in communication skills following the completion of the Gavelliers Club. For instance, one prisoner shared his views regarding how participation in Gavelliers Club has helped his communication skills. He stated that:

*Yeah it's helped me talk because that's one of my downfalls in life, is not being able to talk. So by going to this thing it has helped me to talk and solve problems that way*

Similarly, the impact of the Gavelliers Club in improving communication skills of

participants was also echoed by another prisoner who did not participate in the Gavelliers Club but had witnessed the improvement in another prisoner who took part, stating that:

*you know they (are) speaking more... they are interacting more... they are more sociable beings.*

From the above responses, it can be seen that participation in the Gavelliers Club helped participants improve their communication skills. This is consistent with previous research<sup>23,24</sup> which also showed that art-based interventions helped offenders enhance their communication skills. Importantly, the responses from the prisoners in this study were supported by staff

HMP Grendon is  
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the United Kingdom  
that operates solely  
on the philosophy  
of a democratic  
therapeutic  
community ...

19. Brookes, M. (2010). Putting principles into practice: The Therapeutic Community Regime at HMP Grendon and its Relationship with the 'Good Lives' model. In R. Shuker & E. Sullivan (Eds.) *Grendon and the Emergence of Forensic Therapeutic Communities: Developments in Research and Practice*. London: Wiley-Blackwell.
20. Newberry, M. (2010). A synthesis of outcome research at Grendon therapeutic community prison. *Therapeutic Communities*, 31, 356 – 371.
21. Campling, P. (2001). Therapeutic communities. *Advances in Psychiatric Treatment*, 7, 365–372. doi: 10.1192/apt.7.5.365.
22. Braun, V., & Clarke, V. (2006). Using thematic analysis in psychology. *Qualitative Research in Psychology*, 3, 77–101.
23. Schutt, R. K., Deng, X., & Stoehr, T. (2013). Using bibliotherapy to enhance probation and reduce recidivism. *Journal of Offender Rehabilitation*, 52, 181–197. doi: 10.1080/10509674.2012.751952.
24. Wilson, D., Caulfield, L., & Atherton, S. (2008). *Promoting positive change: Assessing the long-term psychological, emotional and behavioural effects of the good vibrations gamelan in prisons project*. [http://www.academia.edu/1158305/Promoting\\_positive\\_change\\_Assessing\\_the\\_long-term\\_psychological\\_emotional\\_and\\_behavioural\\_effects\\_of\\_the\\_good\\_vibrations\\_gamelan\\_in\\_prisons\\_project](http://www.academia.edu/1158305/Promoting_positive_change_Assessing_the_long-term_psychological_emotional_and_behavioural_effects_of_the_good_vibrations_gamelan_in_prisons_project)

members who echoed the impact of the Gavelliers Club in improving the communication skills of those who participated in the Gavelliers Club. For instance, one staff member stated that:

*...they become more a part of the community. They can socialise better, they can communicate better.*

As previous research has also shown, many offenders have weaknesses in their communication skills.<sup>25</sup> Engagement in the Gavelliers Club can therefore assist with addressing this particular criminogenic deficit.

## 2) Confidence

The second sub-theme which emerged under 'skill improvement' was confidence. This sub-theme looked at participant's views regarding improvements in confidence following the completion of the Gavelliers Club. For instance, a prisoner who had previously participated in the Gavelliers Club was asked whether the Gavelliers Club impacted in anyway on his confidence levels. The prisoner stated: 'Yes, heavily improved. I would like to go back again and build a bit more confidence. But it has helped, yes'. Importantly, the views of this participant were also reiterated by those who did not take part in the Gavelliers Club and by a member of staff. For instance, one prisoner who did not take part in the Gavelliers Club, stated that:

*You do see some people who have participated in the Gavelliers, over time, their confidence increases and they start to talk in the wing, they start to put their point across in the wing.*

Similarly, a member of staff considered that:

*For some I've seen over the years, it was a miraculous change for some of them, their confidence...Major confidence boosts. Guys that wouldn't talk on the wings for months and months and months suddenly got a voice on wing meetings and stuff like that.*

These views support previous research findings which found that offenders had improvements in confidence following completion of an arts-based intervention.<sup>26,27</sup> Therefore, the findings from the current study add to the body of literature on participation in art-based projects and increases in an offender's level of self-confidence.

## 3) Problem Solving

The third sub-theme which emerged under 'skill improvement' was problem solving. This sub-theme considered participant's views regarding improvements in problem solving following the completion of the Gavelliers Club. From the perspective of the prisoners who took part in the Gavelliers Club, those that did not take part, and staff members, the findings showed that

participation in the Gavelliers Club can improve offenders' problem solving skills. One prisoner stated that participation in the Gavelliers Club changed the way he solves or deals with problems:

*It's helped me not to bottle problems up, talk about them as they actually happen. Things are a lot easier to deal with in small amounts, instead of dealing with it as one big issue. So learning to deal with small parts.*

A prisoner who had not participated in the Gavelliers Club was asked to comment on the impact of the Gavelliers Club on problem solving skills of those that took part in the art intervention. He stated:

*Most definitely, most definitely. You know problem solving's massive. Getting angry at someone's only going to make the situation worse. To be able to sit down and speak to someone saying I understand how you feel, this is how I feel you know can only make the situation better.*

Furthermore, a staff member when asked if the Gavelliers Club has changed the way participants deal with problems, stated:

*...the findings from the current study add to the body of literature on participation in art-based projects and increases in an offender's level of self-confidence.*

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25. Bryan, K., Freer, J., & Furlong, C. (2007). Language and communication difficulties in juvenile offenders. *International Journal of Language & Communication Disorders*, 42, 505 – 520. doi: 10.1080/13682820601053977
26. Anderson, K., Colvin, S., McNeill, F., Nellis, M., Overy, K., Sparks, R., & Tett, L. (2011). *Inspiring change: Final project report of the evaluation team*. <http://www.artsevidence.org.uk/media/uploads/evaluation-downloads/mc-inspiring-change-april-2011.pdf>
27. Brewster, L. (2010). The California arts-in-corrections music programme: A qualitative study. *International Journal of Community Music*, 3, 33 – 46. doi: 10.1386/ijcm.3.1.33/1.

*Yeah because they are more willing to talk to other people about their stuff. They are more open and public about it. That's how we work in Grendon, you know you have got a problem and share it.*

The above observations support the view that the Gavelliers Club can help offenders deal with their problems. This replicated previous research<sup>28</sup> which has also indicated that many offenders have deficiencies with their problem solving skills<sup>29</sup> and that targeting low problem solving skills will help address some of the risk areas involved in criminal behaviour.<sup>30</sup>

#### 4) Perspective Taking

Enhanced perspective-taking was the fourth sub-theme which emerged under 'skill improvement' with one prisoner who had previously participated in the Gavelliers Club stating:

*I can work with people now... I can now understand about other people's abilities ... and not have expectations that everyone's going to be able to have the same skill set as me.*

This view was also echoed by a staff member who agreed that participation in the Gavelliers Club helps prisoners understand the thoughts and feelings of others. The staff member stated that:

*I think people who take part in the Gavelliers here are more considerate of others. They are able to listen without speaking over people. They are able to kind of give a judgement on someone's performance which is sort of unbiased.*

An evaluation of the Irene Taylor Trust Music In Prison project<sup>31</sup> has similarly found that deficiencies in perspective-taking, linked to offending behaviour<sup>32</sup> can be addressed through an arts-based initiative.<sup>33</sup>

#### 5) Team Working Skills

In considering the importance of team working skills, the fifth 'skill improvement' sub-theme, one Gavelliers Club participant responded

*'Gavelliers helped me to speak definitely within my small group. And also to find a voice in the wider community... to work together....point out things that we have to change about ourselves to improve... but also trying to help other people try to find things that they could do better as well.*

A Gavelliers Club non-participant considered that:

*A big part of the work we do here, it's all peer lead. Sometimes you know you need to work as a team and come together as a community you know. And sometimes to do that you need to be able to voice what's going on for you and you need to be able to communicate that efficiently. So I feel that Gavelliers does help that.*

One member of staff when reflecting on the impact of Gavelliers Club participation on

team working thought that:

*You know you're all in it together. That team working thing, we're all suffering a little bit so let's help each other out. And that's helped them when working on groups and stuff like that and all the way through.*

Encouragingly, these findings are consistent with previous research on the impact of arts-based intervention on improving team working skills of offenders.<sup>34</sup>

28. Bilby, C., Caulfield, L., & Ridley, L. (2013). *Re-imagining futures: Exploring arts interventions and the process of desistance*. <http://www.artsevidence.org.uk/media/uploads/re-imagining-futures-research-report-final.pdf>

29. McMurrin, M., & McGuire, J. (2005). *Social problem solving and offending: Evidence, evaluation and evolution*. UK: John Wiley & Sons Ltd.

30. Gendreau, P., & Andrews, D. A. (1990). Tertiary prevention: What the meta-analyses of the offender treatment literature tell us about what works. *Canadian Journal of Criminology*, 32, 173 – 184. Retrieved from: <https://www.ncjrs.gov/App/Publications/abstract.aspx?ID=12178431>. Details available at <https://irenetaylortrust.com/what-we-do/our-projects/music-in-prisons/>

32. McMurrin, M., & McGuire, J. (2005). *Social problem solving and offending: Evidence, evaluation and evolution*. Chichester: Wiley

33. Cox, A., & Gelsthorpe, L. (2008). *Beats & Bars, Music in prisons: An evaluation*. 1 – 46. Retrieved from: <https://irenetaylortrust.files.wordpress.com/2014/06/beatsandbars.pdf>

34. See n.24.

## 6) Self-esteem

The final sub-theme which emerged under 'skill improvement' was self-esteem. One Gavelliers Club graduate commented: 'So, my self-esteem and even confidence has been brought up a level'. A non-participant noted: 'So with Gavelliers, you know, getting up and speaking publicly, can only help or improve someone's self-esteem'. A staff member observed:

*I think that's a by-product of the Gavelliers. It is that your self-esteem gets raised (...) you think that's impossible, you can't do that, and then you are able to do it after some weeks of participating in the Gavelliers Club.*

Reassuringly, this increase in self-esteem correlates with the outcome of other arts-based interventions.<sup>35, 36</sup>

## Theme Two — Attitude Change

The second theme identified, attitude change, comprised two sub-themes: general attitude towards others and attitude towards offending.

### 1) General attitude towards others

The first sub-theme which emerged within the attitude change theme, general attitude towards others, considered how participants improved their attitudes towards others after being a member of the Gavelliers Club. One Gavelliers Club graduate considered that his attitude towards others had improved because in the Gavelliers Club:

*You encourage other people, you want to support other people. You want them to do well. It's kind of like a pro-social attitude, as you want people to do better than they were.*

This view was supported by another prisoner not involved in the Gavelliers Club who was of the opinion that there was a change in the attitude towards others by those who took part in the Gavelliers Club:

*I would say they're more positive...and yeah not as negative you know. When they have*

*got something to say a lot of the time now they will say nice things, positive things, instead of just moaning about everything or finding things to moan at.*

Staff too were equally positive:

*I found they were much more tolerant of each other. So they could understand and they would apply what they learnt so they could see a new person feeling anxious and they would...say oh we understand, we been in that position. But they would sort of be more tolerant...they're certainly more tolerant of people and quite supportive and very encouraging.*

This development of positive attitudes towards others has hearteningly, also been observed with other arts-based interventions.<sup>37</sup>

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### 2) Attitudes towards offending

Previous research has indicated that most offenders are of the view that crime is worthwhile,<sup>38</sup> so a positive aspect of Grendon residents engaging with the Gavelliers Club is the contribution this makes within a therapeutic environment to a changed attitude towards offending. As one participant considered:

*'It's made me not want to offend ever again';* while a non-participant discerned:

*If you get a proper understanding of why you do what you do and the effects that it has on yourself and your family and people around you, then you might not go on to commit crime again, you know.*

This re-examination of past offending behaviour has also occurred too when offenders engage with other arts-based activities.<sup>39</sup>

## Theme Three — Motivation To Change

The third theme identified from participation in the Gavelliers Club, motivation to change, comprised

35. Browne, A., & Rhodes, P. (2011). Stitching a future: An evaluation of fine cell work. Retrieved from: [http://www.finecellwork.co.uk/assets/0000/2418/Fine\\_Cell\\_Work\\_evaluation\\_Short\\_version.pdf](http://www.finecellwork.co.uk/assets/0000/2418/Fine_Cell_Work_evaluation_Short_version.pdf)

36. Burrowes, N., Disley, E., Liddle, M., Maguire, M., Rubin, J., Taylor, J., & Wright, S. (2013). Intermediate outcomes of arts projects: A rapid evidence assessment. Retrieved from: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/254450/Intermediate-outcomes-of-arts-projects.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/254450/Intermediate-outcomes-of-arts-projects.pdf)

37. Cohen, M. L. (2009). Choral singing and prison inmates: Influences of performing in a prison choir. *Journal of Correctional Education*, 60, 52-65. Retrieved from: [http://www.jstor.org/stable/23282774?seq=1#page\\_scan\\_tab\\_contents](http://www.jstor.org/stable/23282774?seq=1#page_scan_tab_contents)

38. Healy, D. (2010). *The dynamics of desistance: Charting pathways through change*. Cullompton: Willan.

39. See n.24.

two sub-themes: engagement in therapeutic processes and involvement in other activities and events.

### 1) Engagement in therapeutic processes

The first sub-theme which emerged under 'motivation to change', engagement in therapeutic processes, centred on how participation in the Gavelliers Club assisted those who attended the Gavelliers Club to better utilise other aspects of the therapeutic regime. For example, one Gavellier Club graduate stated:

*Yeah it's helped me in the groups, the small groups, it helped me in the big community rooms. Where I might ask a few questions. I mean I can remember when I first came and I'd go red asking a question or before I was speaking (or) if you'd come into the room and we'd give our introductions, my heart would start beating well before we'd got round to me, just thinking and knowing I'd have to do it...and now it's just gone. I don't go red no more, that's gone.*

This was echoed by another Gavelliers Club graduate:

*What helped me was getting involved with the scheme (.), like the Gavelliers. To sort of help you, in sort of like the whole therapy life here, you know what I'm saying.*

A member of staff shared how participation in the Gavelliers Club had helped prisoners engage in Grendon's therapeutic process:

*They've become more involved in the community meetings and speak up more. And then by doing that they become more a part of the community.*

This development is consistent with previous research at Grendon and elsewhere that showed the rehabilitative benefits arising from participation in prison arts-based interventions.<sup>40,41</sup>

### 2) Involvement in other activities and events

The second sub-theme which emerged within 'motivation to change' concerned involvement in other activities and events. A prisoner who had previously participated in the Gavelliers Club shared:

*I am now in three book clubs...It was during the Gavelliers (.), which kind of gave me the confidence to go and join that.*

This benefit of Gavellier Club participation was supported by staff members, one of whom gave this example:

*I've worked on this wing for 5 years...in recent times he's spoken on family days, social afternoons. He participates in psychodrama and he's fed back to the public what goes on in psychodrama, during family days and social afternoons.*

Another member of staff asserted:

*They were more able to just join in with any events that were going on. So maybe give a speech sort of on a social day or a family day. And they'd often say, oh I would never have been able to do this if I hadn't gone to the Gavelliers.*

Engagement in art-based activities has had similar benefits at other establishments<sup>42</sup> including higher levels of engagement in education and work-related activities.<sup>43</sup>

## Theme Four — Promoting Quality of Life

The final theme identified from participation in the Gavelliers Club, promoting quality of life, comprised two sub-themes: improved well-being and self-reflection.

### 1) Improved well-being

The first sub-theme which emerged within 'promoting quality of life was improved well-being. A prisoner who had previously participated in the Gavelliers Club stated that:

The first sub-theme which emerged within 'promoting quality of life' was improved well-being.

40. Caulfield, L. (2014). Final evaluation of the artist in residence at HMP Grendon. 1 – 33. Retrieved from: <http://artsevidence.org.uk/media/uploads/finalartistinresidencereportaugust2014.pdf>

41. Johnson, L.M. (2008). A place for art in prison: Art as a tool for rehabilitation and management. *Southwest Journal of Criminal Justice*, 5, 100 – 120. Retrieved from: <http://swacj.org/swjcl/archives/5.2/3%20Art%20in%20Prison.pdf>

42. See n.14.

43. Bilby, C., Caulfield, L., & Ridley, L. (2013). Re-imagining futures: Exploring arts interventions and the process of desistance. Retrieved from: <http://www.artsevidence.org.uk/media/uploads/re-imagining-futures-research-report-final.pdf>

*So it's just talking to people, it's so much easier, my skills have improved massively, I'm just more able to just be myself and relax... just relax in my own skin which then affects how I talk with people and people can interact with me. And I'm much more open.*

Similarly, another Gavelliers Club graduate expressed that participation:

*Gave me some sort of calmness (.). It gave me more confidence as well, gave me more confidence in the way I speak.*

This is consistent with previous research that showed participation in art-based projects led to an improvement in offender's well-being,<sup>44</sup> including a prisoner's mental health.<sup>45</sup>

## 2) Self-Reflection

The second sub-theme which emerged under 'promoting quality of life' was self-reflection, with a Gavelliers Club graduate commenting that participation:

*Made me think about my journey here, and what I can get out of it by staying here. It's helped a lot, yeah.*

Similarly, another participant stated:

*Gavelliers has given me that sort of like that reflection (.), sort of like how to deliver certain things that I want to say in the correct way.*

These outcomes are again in accordance with those arising from evaluations of participation in other arts-based activities.<sup>46,47</sup>

## Concluding Thoughts

The key findings from this evaluation of the Gavelliers Club at HMP Grendon highlight the therapeutic and wider benefits of resident participation at the Gavelliers Club. These centre on enhanced interpersonal and problem-solving skills, improved attitudes, increased motivation to change and engagement in therapy at Grendon and, a richer quality of life. While this study may be criticised for relying on retrospective opinions<sup>48</sup> and self-report data, with the potential for socially desirable responses to be given,<sup>49</sup> these outcomes have also been evident in other arts-based interventions which have been evaluated. However, at HMP Grendon this activity has additionally been used to actively encourage those residents with interactional skill deficits to participate, particularly if these are also linked to their offending behaviour. This accords with the RNR (Risk-Need-Responsivity) model of offender rehabilitation<sup>50</sup> but also is a 'strengths based' approach, thereby linking with the GLM (Good Lives Model) This is particularly apposite for prisoners residing within therapeutic communities or in another enabling environment.<sup>51</sup>

44. See.n.24.

45. Nugent, B., & Loucks, N. (2009). Evaluation of artlink central in HMP & YOI Cornton Vale. Retrieved from: <http://artsevidence.org.uk/media/uploads/evaluation-downloads/artlink-central-hmp-yoi-cornton-vale-evaluation-may-09.pdf>

46. Caulfield, L., Wilson, D., & Wilkinson, D. (2010). Continuing Positive Change in Prison and the Community: An analysis of the long-term and wider impact of the Good Vibrations Project. 1 – 36. Retrieved from: <http://www.good-vibrations.org.uk/downloads/Continuing%20Positive%20Change%20final%20full%20report%20June%202010.pdf>

47. Digard, L., Grafin Von Sponeck, A., & Liebling, A. (2007). All together now: The therapeutic potential of a prison-based music programme. *Prison Service Journal*, 170, 3 – 14.

48. Schacter, D.L., Guerin, S.A., & St. Jacques, P.L. (2011). Memory distortion: An adaptive perspective. *Trends in Cognitive Sciences*, 15, 467 – 474. doi: 10.1016/j.tics.2011.08.004

49. Kaminska, O., & Foulsham, T. (2013). Understanding sources of social desirability bias in different modes: Evidence from eye-tracking. Retrieved from <https://www.iser.essex.ac.uk/research/publications/working-papers/iser/2013-04.pdf>

50. Bonta, J. & Andrews, D.A. (2017). *The psychology of criminal conduct (6th ed.)*. London: Routledge

51. Akerman, G., Needs, A., & Bainbridge, C. (Eds.), (2018). *Transforming Environments and Rehabilitation*. London: Routledge.

# Within these Walls: Reflections of women in and after prison

An insight into the experience of women's imprisonment in Britain and Ireland.

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*A lot of people I met in prison shouldn't have been there, there was one girl, she was in for being drunk and incapable and breach of the peace, she got four months.... I thought that was barmy... there was another one, she was eight and half months pregnant, and she got twelve months for stealing a jumper from M and S—she shouldn't have got a sentence like that. (Mary)<sup>1</sup>*

## Introduction

**This paper, based on the authors' continuing work with women in custody in Ireland and Britain over a period of six years, poignantly reminds us of the women in our prisons and the extraordinarily punitive sanction, that imprisonment often is for such women. The Corston Report<sup>2</sup> was regarded as a revolutionary beacon of light for activists and academics working in the field of women's imprisonment. Baroness Corston, in a powerful way, drew the attention of the British government to the plight of women in prison, to the injustice of adding criminal sanctions to social disadvantage for some of the most vulnerable in society. The report enlivened activists, sparking ideas and opening up new possibilities regarding radical change for women in criminal justice systems. The question now, Eleven years on, is whether all that promise was realised. By way of a contribution to answering that question, this article reflects on the reality of women's imprisonment in Britain and Ireland today.**

Currently, there are about 4,588 women in prison in Britain and Ireland, and about 90,497 men. Women constitute a very small minority in our prisons, about 5 per cent of the prison population of Britain and Ireland, and many women have committed only minor offences.<sup>3</sup> Many of the issues for women are the same across each of the four prison jurisdictions of the Republic of Ireland, Northern Ireland, Scotland, and England and Wales. Most come from disadvantaged backgrounds, having experienced poverty, addiction, mental ill health, and violence and abuse, often as children and adults. Women entering prison therefore often have very complex needs.

The gendered ideologies that influence what we think about how women *should* think and feel and behave, form part of a societal superstructure in which family and home are still deemed appropriate preoccupations for women.<sup>4</sup> Many women in prison enthusiastically embrace and actively pursue idealised notions of family and home, despite experiences of a frequently harsh reality. This paper reflects on women's experiences of prison. The paper provides insight into the nature of the women's lived experiences and aspirations and contrasts this with the stark reality and cruelty of their experiences of (criminal) 'justice'. While a great deal has certainly been accomplished regarding women's (positive) experiences in prison, there is still much to do.

## Women and Prison

*Getting sent down was a shock to me, especially pregnant ... I was naïve ... I didn't think you could get prison on a 1st offence ...*

1. Cited in Padel, U. & Stevenson, P. (1988) *Insiders: Women's Experiences of Prison*, London: Virago. 136.
2. Corston, J. (2011) *Women in the Penal System: Second Report on Women with Particular Vulnerabilities in the Criminal Justice System*. London: Howard League for Penal Reform.
3. Prison Reform Trust UK <http://www.prisonreformtrust.org.uk/>, Irish Penal Reform Trust, <http://www.iprt.ie/>
4. Oakley, A. (1985) [1974]. *The Sociology of Housework*. Oxford New York, New York: Basil Blackwell.



*I really didn't but loads of us were first timers for stupid stuff like shoplifting and breach, lots of breaches ... some hadn't even got prison first time round but missed appointments or couldn't pay their fines... and so we all ended up chucked in there... in hell.* (Kady)<sup>5</sup>

There are many stories like the one behind the quote above; stories of women's lives being ripped apart by a prison sentence, and women being sentenced to prison for very minor offences.<sup>6</sup> The opening quote in this paper is from 1988, the quote above, from 2016, highlighting consistently depressing issues. Sharpe<sup>7</sup> refers to a young pregnant mum sentenced to six months in custody for shoplifting goods worth only five pounds with a child under five at home, sentenced, on the day her second baby was due to be born. These examples illustrate the extraordinarily punitive nature of the criminal justice system in relation to women. The early work of Quakers and others in the 1800's, who campaigned for changes in penal responses to women, has been echoed over the last thirty years by increasing calls for changes in the way women are responded to in the criminal justice system.<sup>8</sup> In 2007 the Corston Report re-emphasised the need for positive change. Corston suggested that women were immediately disadvantaged in the criminal justice system (CJS) simply by their gender: the CJS being designed by men and for the most part for men. Corston made 43 recommendations covering all aspects of women's' experience in the CJS. The proposed changes if implemented were to recognise and address the different ways women might experience and respond to the criminal justice system and to show understanding and appreciation of women's pathways into (and out of) offending. Corston's strongest message, however, was that fewer women should 'end up' in custody in the first place.

These projects  
provide support to  
and for women  
enabling positive  
change in relation  
to desistance, and  
more broadly  
in their lives.

Keeping women out of custody was to be achieved, wherever possible, by sentencing women to community-based sanctions whilst utilising a range of community-based small-scale resources designed to meet the specific needs of women in contact with the criminal justice system. These resources would be staffed by professionals and 'experts by experience' who would work together in small well-resourced units offering women compassion, understanding and informed and proven and/or innovative pathways away from offending. There are excellent examples of such resources that have worked successfully with women to assist them in their escape from the CJS, enabling them to forge pathways to desistance. Examples include the 218 Service in Glasgow, Anawim Women's Centre in Birmingham, the Asha Women's Centre in Worcester, the Farida Women's Centre in Oldham, the Inspire Project in Belfast<sup>9</sup> and the Coolmine Project in Dublin. These projects, and others like them, support women affected by the criminal justice system in effecting positive change for themselves and their families. These projects provide support to and for women enabling positive change in relation to desistance, and more broadly in their lives. One woman having attended such a centre summed up its value for her:

*This place saved me; they listen, they listen, they understand, they don't write me off as a failure ...I couldn't see a way out. I honestly don't know where I'd be without this place—well I do ...dead.* (Tricia)<sup>10</sup>

Sadly, the economic landscape is challenging for women's centres, particularly post Transforming Rehabilitation (TR).<sup>11</sup> Some centres have closed altogether or no longer engage in the CJS aspect of their previous work; some face funding and financial issues that seriously affect their ability to continue to support women as fully as they would like. 'Payment by

5. Baldwin, L. *Ongoing Doctoral Research; Motherhood Challenged: A study exploring the emotional impact of maternal imprisonment on maternal identity and emotion*. De Montfort University. Leicester.
6. Baldwin, L. & Epstein, R. Short but not Sweet: A study of the impact of short custodial sentences on mothers and their children. Oakdale Trust and De Montfort University. Available at; <https://www.dora.dmu.ac.uk/xmlui/handle/2086/14301>
7. Sharpe, G. (2015) Precarious identities: 'Young' motherhood, desistance and stigma. *Criminology and Criminal Justice*, 1-16:7.
8. Carlen, P. (1983) *Women's Imprisonment: A Study in Social Control*. London: Routledge and Kegan Paul. Carlen, P. (2002) *Women and Punishment: The Struggle for Justice*. Cullompton: Willan. McIvor, G. (2004) *Women who offend*. London: Jessica Kingsley Publishers. Worrall, A. (1990) *Offending Women*, London: Routledge.
9. See IPRT Position Paper 10, Women in the Criminal Justice System; [www.iprt.ie/contents/2571](http://www.iprt.ie/contents/2571)
10. See also 5.
11. The Government strategy for reform and privatisation in the management of offenders. <https://consult.justice.gov.uk/transforming-rehabilitation/>

results'<sup>12</sup> schemes have seriously affected the way women are and can be supported. Not least because of a lack of appreciation of the significance of the 'unmeasurables' which are vital to success when working with women. How do you measure the impact of *being listened to for the first time, or learning to trust someone, or feeling an increased sense of worth?*<sup>13</sup> Corston called for a 'prison without walls'. It will be interesting for researchers and policy makers alike to review emerging data from the experiences of women since the implementation of Transforming Rehabilitation, to consider the degree to which women's needs have been met, or even indeed accounted for post-Corston.

This paper focusses on the experiences of women who unfortunately still find themselves 'behind the walls' of our prisons. What does it 'feel' like for the 14,466 women in Britain and Ireland who are committed to prison annually? This article can't fully capture the plethora of emotions fuelled by separation from children and families, from home, and from 'normal life' by the experience of imprisonment. However, the article aims to give some sense of those emotions; by exploring the relationship that women, many of them mothers, have with their own private carceral space, that is their cell or prison room. The paper explores women's reflections through photographs, their own words, and their poetry, in their perceptions, emotions and responses to prison space.

### Methodology

Photographs and poetry presented here were gathered during research undertaken by the authors, with women in prison and after their release, in Britain and Ireland. These are presented, along with the women's reflections, to give an insight into women's prison experience, and to give pause for thought about the challenge that we face in trying to bring about

positive change for women in the CJS. Baldwins', UK based research,<sup>14</sup> focused on understanding 'more' about the impact of prison on the emotions and maternal identities of mothers who have experienced incarceration. While Quinlans'<sup>15</sup> research focused on exploring the broader experiences of women in prison in Ireland, as well as her present work considering the experiences of women in prison in Britain and Ireland.

Some of the reflections of women in prison presented here come from interviews with women and mothers that took place post-custody and are therefore reflections reliant on memory and contain emotions that may have altered over time. Also, the varying cultural aspects and situational circumstances in the women's experiences, (for example differences in prison size/conditions) inevitably lead to differences in how women have experienced imprisonment. Despite such nuances, there are common themes in the narratives. It can be said that all the women who participated in the research projects, whether still in prison or having left, continued to be, to a greater or lesser extent immersed in their emotions and the emotional legacy of their prison experience. As feminist researchers, the authors are respectful and mindful of women's personal experiences of prison and place a high value on these, memories, perceptions and narratives presented.

### Prison space and its relationship to the emotions of incarcerated women

Although prison time, as determined by the courts is clearly important, prison space becomes a critical dimension of prison experience for those imprisoned. Prison space has become an increasingly popular field of research, with several academics offering valuable insight into this aspect of prison life.<sup>16</sup> Baldwin<sup>17</sup> reiterates that, while we continue to incarcerate women and mothers, exploring gendered emotion in carceral space is especially useful regarding informing

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12. The means by which private providers will be paid for 'successful outcomes' in relation to offenders and desistance. [www.cjp.org.uk/EasySiteWeb/GatewayLink](http://www.cjp.org.uk/EasySiteWeb/GatewayLink)
  13. See the special edition of BJCJ Transforming Rehabilitation; Under the Microscope for a full discussion on TR. BJCJ. (2013, Winter). *Transforming rehabilitation: Under the microscope*. Vol. 11 (2/3).
  14. Baldwin, L. Mothering Justice: Working with Mothers in Criminal and Social Justice Settings. Sheffield on Loddon, Waterside Press.  
Baldwin, L. (2017) Tainted Love: The Impact of Prison on Maternal Identity, Explored by Post Prison Reflections. *Prison Service Journal*, 233, pp. 28-34.  
<https://www.crimeandjustice.org.uk/sites/crimeandjustice.org.uk/files/PSJ%20233%20September%202017.pdf>  
Baldwin, L. (2018) Motherhood Disrupted: Reflections of Post-Prison Mothers. *Emotion Space and Society*, 26, pp. 49-56.  
<https://www.sciencedirect.com/science/article/pii/S1755458616300500>.  
See also 5
  15. Quinlan, C., (2011), Inside: Women in Prison in Ireland, Past and Present', Irish Academic Press. Quinlan, C., (2015), Women, Imprisonment and Social Control, in The Routledge *Handbook of Irish Criminology*, Routledge  
Quinlan, C., (2016), Women, Imprisonment and Social Control, in The Routledge *Handbook of Irish Criminology*, D. Healy, C. Hamilton, Y. Daly, and M. Bulter, (eds), Pub. Routledge.
  16. See Baldwin 'Motherhood Disrupted' (13), Quinlan (14); also, Moran, D., 2015. *Carceral Geography: Spaces and practices of incarceration*. Ashgate Publishing, Ltd. Knight. V. (2016) *Remote Control: Television in Prison*. Palgrave Macmillan. Crewe, B., Bennett, P., Smith, A. and Warr, J. (2014) 'The emotional geography of prison life', *Theoretical Criminology* 18(1), 1 56-74. Jewkes, Y. and Moran, D. (2017) In: *Oxford Handbook of Criminology*. Oxford University Press, Oxford, pp. 541-561.
  17. See 'Motherhood Disrupted' p56, 7 also 13.

the ongoing campaign for prisons without walls, for the design of 'compassionate prison spaces', and the continuing call for responsive, supportive, needs-led services for women post-custody.

One important aspect of a prison sentence is the fear that it generates. One woman described her fear on arriving in prison:

*I felt so sick in the van, it wasn't travel sickness, I was genuinely sick with fear, I was so terrified of what was to come, of how I'd cope and even if I'd cope with being locked up (Lauren)<sup>18</sup>*

Another woman described the fear she felt on leaving prison:

*Leaving prison was hard actually, I'd been there so long I was 'somebody' there, the girls they all called me mum, even the staff said I was part of the furniture—the big wide world felt too big—I never thought I'd say it ...but I wanted my walls back. (Carla)<sup>19</sup>*

As Rowe<sup>20</sup> reminds us, not all women are the same, nor will they experience and respond to prison in a way solely defined by gender. For some women, prison may provide respite from abuse or addiction, a place that might 'feel safer' than the 'outside', a place where safety, security, predictability and familiarity can offer comfort to some women.<sup>21</sup> It could be argued that perhaps sometimes this reveals more about the deficiencies and pain of the women's 'outside' experience than it does about the 'safety' of prison. There is little doubt that for many women, prison feels less like a place of safety and more like a place of, judgement, punishment, anxiety, fear and indeed further harm. Prisons are experienced as places of pain, sadness, powerlessness and frustration.<sup>22</sup>

Baldwin and Quinlan's studies found that, regardless of the widely varying individual circumstances, women who have experienced prison often describe the best and the worst of their emotions in the context of their own prison space; that is their cell or their room. No matter how stark or indeed how pleasant the room might be, that small space held powerful emotions.



Fig 1. From a woman's cell in Limerick Prison

*it [the cell] was the only place I could go to really feel what I was feeling, you know...does that make sense? I could look at the photos and be happy without anyone judging me, I could cry and hold myself without anyone mocking me or feeling they had to comfort me .... I liked it best, weirdly, after lock up—when I could just be.... (Lauren)<sup>23</sup>*

Lauren, a mother, in prison in the UK, also wrote the following poem describing how her prison cell gave her the opportunity to lose herself in her memories and photographs.

### Frozen Time

*My room...has their photos  
I can see them... and I love that  
This place is my temporary home, my safety,  
my place of dreams.  
They are always in my dreams.  
Frozen in time ...as I remember them...  
In clothes I bought, hair I've brushed and kissed.  
My snapshots of our frozen time...  
Giving me both comfort and pain, giving me  
glimpses of what I have  
Or what I had....  
I look at the photos in my cell,  
my sanctuary my place to dream  
I see them, I kiss their image,  
but I can't feel them or smell them*

18. See 5

19. Ibid

20. Rowe, A. (2011) Narratives of Self and Identity in Women's Prisons: Stigma and the struggle for self-definition in penal regimes. In *Punishment & Society*. 2011:13:571-591

21. O'Malley S. & Devaney C (2015): Maintaining the mother-child relationship within the Irish prison system: the practitioner perspective, *Child Care in Practice*. Bradley, R. Davino, K. (2002). Women's Perception of the Prison Environment: When 'prison is the safest place I've ever been'. *Psychology of Women Quarterly*. 26(4):351-359. See also Rowe (19).

22. Sykes, G. M. (1958). *The society of captives*. Princeton, NJ: Princeton University Press. Moore, L. Scraton, P. (2013) *The Incarceration of Women: Punishing Bodies, Breaking Spirits*. London. Palgrave Macmillan. Goffman, E. (1961) *Asylums*. London. Penguin. Baldwin (2015) see 13 and Quinlan 2011 (14), Corston (2007) see (2).

23. See 5.

24. Ibid.

*My children, that hurts, but I look anyway,  
thoughts lead to memory lane  
I remember the day at the beach, or the one in  
nana's house  
I remember the smells of them, the candyfloss,  
nana's cooking  
I search my mind for every detail, but the smell of  
them I can't get to it  
How do you build a memory of a smell—it's what  
I miss most  
In my snapshots of frozen time, all is well, I'm  
there with them  
I can see them, feel them, smell them  
I should have savoured it all...*

(Lauren)<sup>24</sup>

Present in this research, for both authors, was the women's need to make their prison cell or room 'home'. This creation of a home-like space linked to outside identities, particularly to that of 'mother'. Some mothers, if they did not find it too painful a reminder, would cover their cell walls with photographs of their children. Drawings and paintings, and even certificates sent in by their children would also adorn their cell walls.<sup>25</sup> Baldwin and Quinlan found that the women gained comfort and strength from creating their home-like spaces, describing how they used objects and artefacts, to create displays in which they took great pride. Their prison rooms and sometimes communal spaces were used to create spaces of relation and affiliation, and personal identities steeped in friendship, family and home. Quinlan suggests the women use their personal prison spaces and the artefacts they arrange and display within those spaces as performances of identity recuperation.<sup>26</sup> Using their prison space in this way facilitated the women in securing for themselves preferred identities, identities that challenged the spoiled identities ascribed to them in the criminal justice system. For the women, identification of this personal space with 'home' provided at least some of the 'home comforts' that many women describe missing so much. Associating their cell with home provided what one woman called an 'emotional sanctuary' from the wider prison space.

*you make your space comfortable ... you  
make it homely.... You make it home (Kady)<sup>27</sup>*

For Anna, her prison space was not just her home, but a place where she was able to re-create the rituals associated with home 'outside':

*...when I come in here and close the door,  
well I think about home. I look at my pictures  
and my photographs and I just get away. I'm  
not here you know? If I get something new, if  
I get a new flower or a new ornament, I'll  
want to change the whole room around to fit  
in with it ...it's my room, my space and I like  
it. It's my own little world. (Anna)<sup>28</sup>*

Conversely, many women feared the loneliness and 'empty time' spent in their cells—particularly during 'lock up' or at night. Several women described their fear at being left alone with their thoughts, and the negative emotions this might trigger. One woman said:

*...it made me feel dark and alone, it was when  
I couldn't help but remember stuff, It was  
when I missed my kids the most and it was  
always then I would cut up—I never felt safe on  
my own or in my own head... (Maggi)<sup>29</sup>*

This woman worried that she might die in her cell, being fearful that her suicidal thoughts would eventually overpower her. She wrote her fears in her journal, as a series of poems, one of which is presented below:



Fig 2. From a woman's room in The Dóchas Centre, Mountjoy Prison, Dublin

Throughout these reflections, the fragility of women in prison, their vulnerabilities, are evidenced in these photographs, poems and voices. As explained, the personal space that the women had in prison was a space within which they could and did enact their own identities, their own sense of self. The mothering

25. See Baldwin 2018 (13) & Quinlan 2011; 222 (14).

26. Quinlan 2013; 222-221 (14).

27. See 5.

28. See 13.

29. See 5.

identity of some women was very evident in the way in which they presented their own prison space. The struggles that the women had with the person they believed they were and the person they believed they had become was evident in the reflections of many women. The difficulties they dealt with regarding presenting themselves to the world beyond their prison room or cell were evident. These difficulties are particularly well expressed in the following poem:

*I will tell them  
I tell them I'm on holiday  
I tell them I'm at work  
I tell them I love them  
I tell them I'm sorry  
I tell them I will be better  
I tell them I'll be home soon  
I tell them I'm ok ...  
I don't tell them I'm not really ok*

(Mercy)



Fig 3. From a woman's room in The Dóchas Centre, Mountjoy Prison, Dublin

### Yellow

*Prison—people think it's grey and dark and awful  
Mine is yellow—yellow—the colour of sunshine.  
My old life was the grey, the dark, the awful  
I can see blue sky from my prison,  
The garden is the most beautiful I've ever seen  
Lives outside the walls—we see them—  
we won't have that life  
But it's a view of hope—maybe we will—they say it's  
about choice*

*I choose that life—is it really that simple  
- No  
So instead  
I choose here—it's safe, it's home, it's calm  
It's yellow here,  
The colour of sunshine.  
I choose this life  
I won't leave.*

(Mary)

### Conclusion

In this thought piece, we have tried to give a sense of the women imprisoned in Britain and Ireland; a sense of their identities, a sense of who they think they are and what their prison experiences mean to them. The poems and the photographs evidence the brave and valiant nature of women who experience incarceration, their determination to be who they are and to present to the world their 'best' selves from their prison space. It is clear that the women's relationship with their individual space in prison has relevance to their emotional wellbeing. This space is a deeply intense concentrated space, a space in, what Crawley<sup>30</sup> calls, the already 'emotional arena' that is a prison.

It is hoped this thought piece will serve to inform the design of and the need for compassionate prison spaces, as well as assisting in developing an understanding of what it means for women separated from children, family and home. Furthermore, we seek to remind those 'in charge' of the care and the control of women in criminal justice systems that women who enter prison bring with them all that they were before prison and all they hope to be on release from prison. Women who are prisoners are women first and foremost.

It is as clear today, 11 years post-Corston, as it ever was, that prison is very rarely the most sensible, appropriate or proportionate sanction for women who break the law. Prison remains an overly punitive, painful, and frequently unnecessary sanction which has a detrimental effect on women, and on their children's lives. It serves as a reminder to us all Corston's key recommendation that most women who break the law need holistic, compassionate needs-led responses, based in the community in 'prisons without walls'.<sup>31</sup>

30 Crawley, E. (2004) Emotion and Performance: Prison Officers and the Presentations

31 All the poems in this paper were written by mothers and grandmothers during Baldwin's Doctoral research study (see 5). All images included in the paper were taken as part of Quinlan's doctoral research, (see 14). Neither the poems or images can be reproduced without the permission of the authors.

# Tuberculosis Control in Prisons in England

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## Summary

**England has one of the highest rates of TB in Western Europe and significant disease burden exists within prisons. International efforts to advance the prevention and control of TB in prisons have culminated in new system-wide strategies being implemented in English prisons to identify and treat the disease. This article summarises these developments with the aims to inform those working in relevant healthcare or policy roles, and to promote best practice internationally. A review of national and international policy was conducted, and expert advisors in the field of health and justice and TB were approached through Public Health England professional networks to contribute evidence.**

Key to the success of the new approach is the identification of active (symptomatic and potentially infectious) and latent (asymptomatic and non-infectious) cases of TB. Healthcare and custodial staff have important roles to play in this and in enabling effective screening, treatment and infection control. Prison staff working directly with prisoners who are unvaccinated, tuberculin-negative and aged under 35 years should receive BCG. Treatment should be managed by a multidisciplinary team which is responsible for ensuring continuity of care, an issue particularly pertinent given the high turnover of detainees in these settings.

## Tuberculosis (TB): the disease and its incidence

Tuberculosis (TB) is an infection of the lungs and/or other organs, usually caused by *Mycobacterium*

*tuberculosis* but occasionally by other mycobacterium such as *M. bovis*, *M. africanum* or *M. canettii*. TB is transmitted via the respiratory route, by breathing in respiratory droplets from a person with infective pulmonary TB.<sup>1</sup> The infection may develop into active TB, affecting organs such as the lungs, kidneys or bone; or it may remain in a latent, asymptomatic and non-infectious state.<sup>2</sup> TB is likely to be underdiagnosed due to the fact that it can remain in a latent and asymptomatic state, and the non-specific symptoms can be confused with other diseases.<sup>3</sup> Latent TB can activate and become symptomatic and/or infectious at any point: 5 per cent of cases develop into active TB straight away, and 10 per cent may reactivate at any further point, most likely in the first two years following infection.<sup>4</sup> The risk of reactivation in patients with HIV co-infection rises to an annual risk of 15 per cent.<sup>5</sup>

England has one of the highest rates of TB in Western Europe; in 2016 there were 5,664 reported cases of TB in England, 74 per cent of which were among people born outside the UK and 11 per cent among those with at least one social risk factor such as imprisonment or homelessness.<sup>6</sup> TB is a particularly significant public health concern for the English Prison Estate. In 2016/17 there were 35 cases of TB notified in prisons in England, equal to a rate of around 40 cases per 100,000 persons.<sup>7</sup> By comparison, the rate of the TB rate in the general population in England stood at 10.2 per 100,000 in 2016.<sup>8</sup> Globally, the incidence of TB in prison populations is estimated to be 23 times higher than that of in the general population, exacerbated by the high prevalence of HIV co-infection, which increases the risk of reactivation and subsequent spread of TB.<sup>9</sup>

1. Public Health England (2013) The Green Book Chapter 32: Tuberculosis. London : PHE, pp. 391-409.
2. Ibid.
3. Anders P, Jolley R, Leaman J. (2017) Rebalancing Act. London : Public Health England and The Home Office
4. Public Health England (2013) see n. 1.
5. Aaron L, Saadoun D, Calatroni I, Launay O, Mémain N, Vincent V, Marchal G, Dupont B, Bouchaud O, Valeyre D, Lortholary O. 5, (2002) Tuberculosis in HIV-infected patients: a comprehensive review. In Clinical Microbiology and Infection, Vol. 10, pp. 388-398.
6. Public Health England (2017) Tuberculosis in England: 2017 Report. London : PHE.
7. Public Health England (2017) Health and Justice Annual Review 2016/17. London : PHE.
8. Public Health England (2017) see n. 6.
9. Aaron et al. (2002) see n.5; Dolan K, Wirtz AL, Moazen B, Ndeffo-mbah M, Galvani A, Kinner SA, Courtney R, McKee R, Amon JJ, Maher L, Hellard M, Beyrer C, Altice F. (2016), Global burden of HIV, viral hepatitis, and tuberculosis in prisoners and detainees in The Lancet, Vol. 388, pp. 1089-1102.

## Risk-factors associated with TB

Social risk factors such as homelessness and drug or alcohol dependence put people at higher risk of acquiring TB, and are often over-represented amongst the prison population.<sup>10</sup> Over 15 per cent of prisoners surveyed in 2012 had been homeless immediately prior to custody, compared to a lifetime experience of 3.5 per cent in the general public.<sup>11</sup> Twice as many people in prison report harmful drinking compared to the general population whilst one hundred times as many people in prison report opiate and cocaine use compared to the general population.<sup>12</sup> Injecting drug behaviours brings with it the risk of HIV co-infection (as well as other blood borne infections) which can increase the risk of TB transmission.<sup>13</sup> Factors related to prison life itself also increase the risk of contracting TB. The close living arrangements of life in prison can easily facilitate the spread of TB between persons, and the high turnover of detainees increases the likelihood of transmission to other areas and institutions.<sup>14</sup> Those with TB released from prison without treatment also risk transmitting TB in their communities.<sup>15</sup>

The importance of addressing prisons as high-risk settings for TB is increasingly recognised in national and international guidelines. The World Health Organisation provides explicit guidance on the importance of managing TB in prisons in their key publication *Prisons and Health*.<sup>16</sup> The Collaborative Tuberculosis Strategy for England: 2015 to 2020 was published in 2015 and made specific reference to the identification and treatment of cases in prisons, demonstrating renewed political commitment to address TB in this setting.<sup>17</sup> The National Institute for Health and Care Excellence (NICE) provides guidance for prisons in England and Wales on the management of TB, which includes prevention, containment and treatment recommendations in NICE Guideline No. 33.<sup>18</sup> In January 2017, Public Health England published *Tackling tuberculosis in under-served populations: a resource for TB control boards and their partners*.<sup>19</sup> This outlined the importance of

addressing TB in the criminal justice setting and recommended improved early diagnosis of TB within prisons.<sup>20</sup> There is also a National Partnership Agreement between the HM Prison and Probation Service, the National Health Service and Public Health England to align support and resources to address the burden of TB.<sup>21</sup>

## Active TB identification and response

In England, all new entrants to prisons should be assessed for symptoms of active TB in order to protect the health of detainees and staff by facilitating prompt treatment.<sup>22</sup> This is in line with international recommendations.<sup>23</sup> Symptoms include:

- ☐ Cough lasting more than two weeks
- ☐ Haemoptysis (coughing up blood)
- ☐ Unexplained weight loss over the past six months
- ☐ Night sweats
- ☐ Fever
- ☐ Poor energy
- ☐ Lack of appetite

Any person with these symptoms should be isolated in a single cell or room as soon as possible to await comprehensive medical assessment. If multi drug resistant (MDR) or extremely drug resistant (XDR) TB is suspected (e.g. history of non-compliance with treatment, known residence in MDR/XDR high incidence country, or contact with a known MDR/XDR case), isolation in a negative pressure room in an external hospital should be considered.<sup>24</sup> All new entrants who report a previous TB diagnosis should have their treatment status verified (as either untreated, partially or fully treated) with medical records. Where medical records are unavailable, the local health protection team can assist in establishing treatment status. In detention settings with an on-site digital X-ray machine, all new entrants should be offered a chest X-ray to screen for active TB if they have not had a chest X-ray in the past six months.<sup>25</sup> As TB is an

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10. Public Health England (2017) *Tackling tuberculosis in under-served populations: a resource for TB control boards and their partners*. London : PHE.
  11. Anders et al (2017) see n.3.
  12. Ibid.
  13. Aaron et al. (2002) see n.5; Dolan et al (2016) see n.9.
  14. World Health Organisation (2017). *Tuberculosis in Prisons*. World Health Organisation Tuberculosis (TB) Fact Sheets. <http://www.who.int/tb/areas-of-work/population-groups/prisons-facts/en/>
  15. M. Dara, S. S. Chadha, N. V. Melchers, J. van den Hombergh, E. Gurbanova, H. Al-Darraj. 1, (2013) Time to act to prevent and control tuberculosis among inmates in *International Journal of Tuberculosis and Lung Disease*, Vol. 17, pp. 4-5.
  16. M. Dara, D. Chorgoliani, P. Colombani (2014) *TB prevention and control care in prisons*. *Prisons and Health*. World Health Organisation, Geneva : WHO pp. 56-72.
  17. Public Health England (2015) *The Collaborative Tuberculosis Strategy for England: 2015 to 2020*. London : PHE.
  18. National Institute for Health and Care Excellence (2016) NG33: Tuberculosis. NICE Guidance. <https://www.nice.org.uk/guidance/ng33>
  19. Public Health England (2017) see n.10.
  20. Ibid.
  21. NOMS, PHE, NHSE (2015) *National Partnership Agreement: Commissioning delivery of Healthcare in Prisons 2015 - 2016*. London : NOMS, PHE, NHSE.
  22. Public Health England (2017) see n.10; National Institute for Health and Care Excellence (2016) see n.18.
  23. World Health Organisation (2017) see n.14; Dara et al (2014) see n.16.
  24. Public Health England (2013) *Management of TB in Prisons*. London : PHE.
  25. National Institute for Health and Care Excellence (2016) see n.18

indicator illness for HIV, testing for this should be offered to all patients diagnosed with active TB.<sup>26</sup>

### Latent TB identification and response

Latent TB (LTBI) describes a phase of infection in which a patient with TB is not symptomatic or infective. Diagnosing and treating latent TB before it reactivates has been shown to be both cost effective and clinically effective in preventing active TB infection and subsequent risk of transmission.<sup>27</sup>

People diagnosed with HIV in prison or undergoing blood borne virus testing should be offered latent TB testing.<sup>28</sup> Detainees within, or transferred from, areas of the UK or other countries with a high incidence of TB (more than 40 cases per 100,000 people per year) should be offered interferon-gamma release assay (IGRA) testing for latent TB if they are younger than 65 years of age or in regular contact with substance misuse or other support services.<sup>29</sup> Plans are in place to expand this programme to cover all foreign nationals from high incidence countries in prison, regardless of contact with support services. A pathfinder pilot, led by the national PHE Health and Justice Team, is due to commence in 2018 in selected sites in the South East of England.<sup>30</sup>

### Treatment

Drug-sensitive TB is treatable with a combination of several anti-tuberculosis drugs, usually taken for around six months.<sup>31</sup> If the full course is not completed, relapse or drug resistance may occur, making future treatment more challenging.<sup>32</sup> All new entrants to prisons should be asked if they are taking TB medication and be provided with continued treatment.<sup>33</sup>

Directly observed therapy (DOT) is recommended for all persons within prisons undergoing treatment for TB.<sup>34</sup> This is a process whereby all doses of treatment are given

under supervision to ensure the right drugs are taken at the right time, for the full course of treatment, in order to improve treatment adherence and reduce the risk of drug resistance or disease recurrence. A recent systematic review demonstrated that the use of DOT resulted in significantly higher treatment completion rates in prison settings.<sup>35</sup>

TB treatment regimens can be complex and dependent on various factors including the patient's pre-existing medical conditions, the context in which treatment is being delivered, and the drug susceptibility of the TB organism detected.<sup>36</sup> Treatment regimens require careful and specialist monitoring.<sup>37</sup> It is therefore recommended that all patients undergoing treatment for TB in prison are referred to the local TB specialist service to ensure quality and continuity of care in and around the prison estate, and especially on release into the community where often real challenges emerge with patients 'falling off' the care pathway.<sup>38</sup>

### Control and Prevention of Onward Transmission

All prison staff members who are unvaccinated, tuberculin-negative (a test for TB immunity) and aged less than 35 years are recommended to receive the BCG vaccination.<sup>39</sup> There is no data available on the protection afforded by BCG vaccine when it is given to adults aged 35 years or over, and so is not recommended for this age group.<sup>40</sup> There are very few studies assessing the effectiveness of BCG vaccination in adults, and more research is required to determine how effective it is at preventing cases of pulmonary TB (the more common form of TB found in adults).<sup>41</sup>

To prevent onward transmission of TB, isolation of infectious patients in a single cell or room is recommended, ideally in the healthcare department, until it is determined by the health protection or TB specialist team that the patient is no longer infectious.<sup>42</sup> It is recommended that cases should wear a surgical mask whilst infectious and

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26. British HIV Association (2008) UK National Guidelines for HIV Testing. London : BHIVA
  27. National Institute for Health and Care Excellence (2016) see n.18
  28. National Institute for Health and Care Excellence (2016) see n.18; British HIV Association (2016) British HIV Association guidelines for the routine investigation and monitoring of adult HIV-1-positive individuals. London : BHIVA
  29. National Institute for Health and Care Excellence (2017) Tuberculosis in prisons or immigration removal centres.
  30. Public Health England South East (2016) Audit of TB in Prisons & IRCs . London : PHE
  31. National Institute for Health and Care Excellence (2017) see n.29
  32. Dara et al (2014) see n.16
  33. Public Health England South East (2016) Audit of TB in Prisons & IRCs . London : PHE
  34. Public Health England (2013) see n.1; National Institute for Health and Care Excellence (2017) see n.29; European Centre for Disease Prevention and Control (2017) Systematic review on the diagnosis, treatment, care and prevention of tuberculosis in prison settings.s.l. : ECDC
  35. European Centre for Disease Prevention and Control (2017) see n.34
  36. National Institute for Health and Care Excellence (2016) see n.18
  37. Ibid
  38. Public Health England (2017) see n.10; National Institute for Health and Care Excellence (2017) see n.29; Public Health England South East (2016) see n.33
  39. Public Health England (2013) see n.1.
  40. Public Health England (2013) see n.1
  41. Public Health England (2013) see n.142 Dara et al (2014) see n.16; Public Health England (2017) Draft guidance: Tuberculosis (TB) active case finding protocol for new receptions in prisons and immigration removal centres. London : PHE; European Centre for Disease Prevention and Control (2017) see n.34
  42. Dara et al (2014) see n.16; Public Health England (2017) Draft guidance: Tuberculosis (TB) active case finding protocol for new receptions in prisons and immigration removal centres. London : PHE; European Centre for Disease Prevention and Control (2017) see n.34



outside of their cell to prevent aerosols of respiratory droplets being inhaled.<sup>43</sup> Persons on TB treatment must therefore be placed on medical hold until no longer infectious, and only managed by staff who have been immunised against TB.<sup>44</sup> The local health protection team and TB service should be able to provide guidance as to infection prevention and control.

Contact tracing and screening may be warranted if there is found to be a risk of transmission from a TB case.<sup>45</sup> A risk assessment should be undertaken by the local health protection team to determine the extent of screening and contact tracing required.

### **Managing transfers to other institutions and the community**

It is essential that people with TB continue their treatment when transferred between institutions or released into the community.<sup>46</sup> Robust processes to ensure continuity of care are particularly pertinent given the high turnover of the prison population. All prison healthcare teams should ensure that contingency, liaison and handover arrangements between institutions and community organisations are in place. This also requires other organisations, such as external healthcare or health protection agencies, to be included in planning and decision making. It is expected that all cases have a named TB case manager who can take responsibility for development and implementation of treatment continuity plans.<sup>47</sup> If the detainee is to be released, case managers should ensure that adequate accommodation and local provision of DOT is available to maximise the chance of treatment adherence.

### **Challenges**

In order to identify and treat cases of TB in prisons successfully, prison staff need the right resources and opportunities to do so. Ongoing training is required to maintain skills and knowledge: a recent audit of twenty prisons in the South of England demonstrated significant variation in the understanding and implementation of relevant policy and practice related to the management of TB by prison healthcare teams, and low awareness of TB amongst the general prison workforce.<sup>48</sup> The logistics of undertaking IGRA testing to screen for latent TB is a distinct challenge; blood samples need to be delivered to labs within 16 hours of collection and cannot be refrigerated, which can sometimes be difficult for busy and isolated prison healthcare departments with little time to arrange prompt transport.<sup>49</sup>

Only eleven prisons in England have an onsite digital X-ray machine to screen for pulmonary TB, and patients may encounter considerable delays in having an X-ray done externally if there are limited prison staff available for escort.<sup>50</sup> Communication between prison healthcare teams, NHS TB services and public health teams is crucial for the effective clinical and public health management of TB in prisons. However, the need for tight security can result in restricted access to sites without express advance permission, and some prisons lack agreed working agreements with outside agencies which makes remote collaboration challenging.<sup>51</sup> The benefits of treating TB inside prisons to prevent onward transmission, particularly in the case of latent TB, are often realised by the wider population rather than the prison itself. It is important, therefore, that the resources used by prisons to identify and manage cases of TB are appropriately covered by national agencies.

### **Conclusions**

TB in prison populations is a huge global health issue with implications not just for those with the disease, but also for prison staff, healthcare workers and the wider community.<sup>52</sup> The policies identified demonstrate the wider public health importance of addressing health protection issues within detention settings: by reducing the burden of TB in the prison estate, the health of the wider community is also protected as a result of the reduced risk of onward transmission. The effective management of TB cases can be particularly challenging given the restrictions of the prison environment and the high number of susceptible individuals. However, this environment also provides unique opportunities for identifying cases early, through screening of new arrivals who might have little prior contact with healthcare services, and ensuring adherence to treatment regimens with directly observed therapy (DOT). For this guidance to be implemented effectively, staff working in prisons need adequate training and resources (both custodial and healthcare) to facilitate them in identifying potential cases and engaging with treatment and screening processes. Having a specific TB policy and a named TB lead within the healthcare team to monitor and improve practice will provide the strategic overview and drive forward change. Prisons in England have the potential to be exemplars in the prevention and control of TB in detention settings, and can make a significant impact on the overall burden of TB for the country as a whole.

43. National Institute for Health and Care Excellence (2017) see n.29.

44. Public Health England (2017) see n.42.

45. European Centre for Disease Prevention and Control (2017) see n.34.

46. National Institute for Health and Care Excellence (2017) see n.29; Public Health England (2017) see n.42.

47. National Institute for Health and Care Excellence (2017) see n.29.

48. Public Health England South East (2016) see n.33.

49. European Centre for Disease Control (2011) Use of interferon-gamma release assays in support of TB diagnosis. Stockholm : ECDC.

50. Public Health England (2017) se n.7.

51. *ibid.*

52. Dolan et al (2016) see n.9.

# French parole and 'sentence management'

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On January 1st, 2017, there were 78,796 inmates serving time in French prisons (59,300) or on remand (19,498). However, this official number includes those serving part of their time in 'prisoners' serving a 'measure under prison registry', ie either a 'semi-freedom' measure, where they spend part of their time in prison (usually night-time and weekends) and part of their time in the community having activities (eg Employment, treatment), or a 'placement in the community', ie a measure where the person is placed in the French equivalent of approved premises, or is serving time at home with an electronic monitoring device 'unless the court has issued a bench warrant, prison sentences of up to two years (one year if the person is a recidivist in the narrow legal sense) are' The main lesson for English parole is that it is paramount, In other words, strictly speaking, there were 68,432 people detained full time in prison. There were at the same time 164,146 people on probation, a term which includes people serving a community sentence or released prisoners on licence who are supervised by the probation services and/or charities.<sup>1</sup> Statistics for lifers were provided by the Ministry of Justice in 2018, for 2015: there were only 541.<sup>2</sup> France has a 'life without parole' system, which consists in a life sentence and the equivalent of a tariff (*mesure de sûreté*) which is itself perpetual in nature, which makes release impossible before thirty years.<sup>3</sup> No official statistics exist concerning 'true' life, probably because the sheer number is so minimal. A personal contact with the *Observatoire international des prisons* (Sept., 5, 2018) (International prison watch, France) has revealed that a total of four people had been sentenced to true life since its creation in 1994, one of whom has since died. Clearly, France appears rather unique in terms of its approach to sentencing. Moreover, probation and parole are part of a unique legal and institutional domain called

'sentence implementation' or 'sentence management', which associates the prison and probation services and the judiciary, notably a 'sentence implementation judge' (*juge de l'application des peines*, JAP). In essence, France sees sentence management as being part of the penal continuum and as being a dynamic process in which important decisions are made by the JAP, and daily supervision is performed by the probation services.

This article will describe: processes of sentence management from court, through prison and post release in France; the legal and practical structures of these processes, and shall consider the realities of the implementation of these sentence management ideals in light of current managerial, institutional, and political pressures.

It will be argued that the sentence management ideals in France offer the potential for positive examples internationally notwithstanding their imperfections and fragilities.

## Parole as part of 'sentence management'

In France, parole is part of a wide specialised legal field called 'sentence implementation law' or 'sentence management'. The concept of sentence management refers to the understanding that sentences are dynamic, and the JAP must regularly adapt them to offenders' circumstances, reinsertion efforts, or the lack thereof. Prison release is thus perceived as being one of the phases of the penal process, which includes the supervision of community sentences, and prison release, reentry and supervision. It is regulated by 'Book' V (Livre, that is Part) of the Penal Procedure Code. This penal continuum is as follows:



1 Ministry of Justice (France) (2017). *Annuaire statistique*, 2016, Chapter 8 "L'application des peines ».

2 Ministry of Justice (France) (2018). *Projet de loi de programmation pour la justice 2018-2022*. Etude d'impact. 23 April.

3 Herzog-Evans, M. (2017). *Droit de l'exécution des peines*. Paris: Dalloz, 5th ed.

In essence, the penal courts which deal with felonies or crimes (not misdemeanours, because they do not carry prison sentences) convict and sentence offenders to prison, which then opens the sentence management phase, during which the JAP is competent. Unless the court has issued a bench warrant, prison sentences of up to two years (one year if the person is a recidivist in the narrow legal sense) are referred to the JAP, who can change them before the person is even sent to jail; this is called an 'article 723-15 procedure'. Longer sentences or people sent directly to jail via a bench warrant, or who have failed to submit to the JAP's '723-15 convocation' or to initiate the reinsertion efforts s/he requested (looking for a job; beginning treatment, etc.) serve part of their sentence until the JAP can release them early (usually between a third and a half of their sentence).

One of the striking features of the French sentence management system is how much flexibility, agency, and options the prisoners—and consequently, the JAP—have.

This article will, therefore, describe: the processes of sentence management from court, through prison and post release in France; the legal and practical structures of these processes, and shall consider the realities of the implementation of these sentence management ideals in light of current managerial and political pressures.

It will be argued that the sentence management ideals in France offer the potential for positive examples internationally notwithstanding their imperfections and fragilities.

### **Prison release measures and decisions making**

In France, release decisions are made by a judge, the JAP, and parole or medical release decisions for long sentences are within the competence of a three JAP tribunal (*tribunal de l'application des peines*—TAP).

In essence, prison release is perceived as being the direct result of the prisoners' agency: Prisoners must file an application, which presents their release project, which they must prepare either on their own, or typically, with their attorney, their family, charities, employment and other agencies, and the probation

services. The project is expected to meet the person's social and psychological needs; for instance, a drug abuser is expected to include a drug treatment component, the nature of which is usually left open to the prisoner's decision. The prisoner can choose to live wherever s/he wants, provided that there is no no-contact or no-show condition already attached to the sentence or the JAP does not deem this necessary (e.g. in a domestic violence cases). Releasees who are physically and mentally fit are expected to seek employment upon their release and to initiate contact with different community agencies before their release. Furlough is typically granted before the final release decision is made, allowing prisoners to meet charities, employment agencies, or treatment centres. Having obtained several furloughs and returned safely and on time to prison is a positive factor which the JAP takes into consideration.

Release projects are called 'prisoners' projects'. A typical question a JAP would ask at the beginning of a hearing would thus be: '*Can you describe your project to the court?*' The hearing consists in discussing the project and choosing the best measure to facilitate its smooth execution. Indeed, the prisoners apply for one, or sometimes alternatively, several release measures. A JAP cannot release a prisoner via one particular measure (e.g. semi-freedom) if the prisoner wants another (e.g.

electronic monitoring—EM). The choice of a suitable measure depends on whether the prisoner needs more support, more monitoring, more freedom, for example to take care of small children, to travel, to get residential treatment, etc.

Release or release preparatory measures such as furlough are made in the context of roughly two main procedures: those which abide by due process rules, and are therefore close to the legitimacy of justice-procedural justice—therapeutic jurisprudence paradigm,<sup>4</sup> and those which are made in the absence of due process, and in which prisoners do not have a voice.

Measures which are pronounced without a court hearing in the context of a 'sentence' implementation commission, in which the prosecutor, prison governor, prison officers and probation officers sit, but in which the prisoner or his/her attorney are not present, are the following:

One of the striking features of the French sentence management system is how much flexibility, agency, and options the prisoners—and consequently, the JAP—have.

4. Herzog-Evans, M. (2016 a). Law as an extrinsic responsivity factor: What's just is what works! *European Journal of Probation*, 8(3), 146-169.

- *Credit remission* is automatically granted to prisoners (three months for the first year and two for the following years; seven days per month for shorter sentences). The JAP can intervene and withdraw part or all of it if prisoners commit disciplinary offences whilst incarcerated. These are not release measures per se, but they greatly contribute, together with supplementary remission, to the reduction of time served in prison;
- *Supplementary remission* is granted by the JAP once a year (totalling three months for each year), or once a month for shorter sentences (seven days per month) and is based on the reinsertion efforts made by prisoners in the form of education, vocational training, work, treatment, the payment of liquidated damages, and even to read books;
- *Furlough*, of which there are four different types, depending on what the goal is and ranging from a few hours (e.g. to go to the hospital or to meet a potential employer) to several days (the most frequent causes being maintaining family contacts, or in tragic cases, attending a burial or seeing a dying family member one last time);
- *Furlough with escort* is granted for exceptional and tragic causes such as a death in the family and for prisoners who are either too far away from their release date, too dangerous, or represent too serious a flight risk for ordinary furlough to be granted.

Remission mostly is a tool which aims at encouraging prisoners to be of good behaviour, furlough is understood as being necessary to prepare for a full release measure, by gradually exposing prisoners to the outside world, and allowing them to make the necessary arrangements and contacts (e.g. with a hospital, a charity, state or private employment agencies, and so on).

Measures which are taken by the JAP or the TAP via a court hearing where the JAP, the prison governor

or probation chief, and the prosecutor sit (the decision is made by the JAP alone) and where the prisoner and his/her attorney are present are: 'Conditional release' ('libération conditionnelle'), that is parole, where the person is supervised by the probation service and must abide by several obligations, but is otherwise essentially free; 'Sentence suspension'—ordinary, that is the suspension for a maximum of four years of sentences of up to two years for medical, social or family reasons, which in practice is seldom pronounced; and 'Medical sentence suspension' for dying people or people with a serious medical condition which is incompatible with incarceration, as analysed according to article 3 of the European Human Rights Convention.<sup>5</sup>

The JAP can also pronounce three other measures via a due process trial: EM; semi-freedom in which the person is daily released into the community for work, to seek employment, to get treatment or to take care of his family, but returns to prison at night and over the weekend; and placement in the community, which is a very supportive measure for very dissocialised offenders with multiple needs, and is managed by charities and executed in specialised centres or in therapeutic apartments. These measures can also be pronounced as stand-alone sentences by the penal court. They only apply to sentences of up to two years for longer sentences with up to two years

left to serve, whether the procedure comprises due process or not. These measures are called 'under prison registry' (sous écrou) because whilst (partly) physically released, the person is still legally a prisoner and has a prisoner identification number (écrou). These measures can also, and for the most serious cases (sexual or serious violent offences and long sentences) must, be used as probationary measures attached to parole. This creates a type of decompression chamber between high security prison and parole.

In 2014 the law was amended and created a procedure which competes with due process procedures. Called 'release under constraint', this procedure is open to offenders serving up to two years and who have not been released via a due process trial and without a release plan, by the time they have

Measures under prison registry can also be managed (adapted) during their execution. The JAP can grant remission and furlough (particularly over weekends, so that prisoners can enjoy family life and activities).

5. Mortet, L. (2007). La suspension médicale de peine. Paris : L'Harmattan

served two third on their sentence. In this case, the JAP releases prisoners in the context of the aforementioned 'sentence' implementation commission'. The prison services, who drafted this piece of legislation, hoped that without the bother of a due process trial, more prisoners would be released. This did not work out for a number of reasons, which are examined below

Measures under prison registry can also be managed (adapted) during their execution. The JAP can grant remission and furlough (particularly over weekends, so that prisoners can enjoy family life and activities). S/he can additionally decide to transform one measure into another, for instance, EM into semi-freedom, if the person has breached an EM measure, rather than recall the person fully to prison, or conversely, semi-freedom into EM or even into parole, if the person is doing well.

### Obligations and prohibitions

The same list of obligations applies to community sentences and to release measures; some are mandatory and apply automatically, which means that the JAP cannot exempt releasees from them; others are optional.

- There are six mandatory control measures listed in article 132-44 of the Penal Code, notably the obligation to attend the meetings set by probation officers, to provide documented proof of residency, employment, treatment or payment of damages, or to seek the JAP's permission to change jobs or residency;
- There are 22 optional (for the court, not the releasee) *obligations or prohibitions* listed in article 132-45 of the Penal Code from which the JAP can choose. The obligations are, for instance, to work; to seek vocational training education; to seek treatment; to pay damages, a fine, or alimony. The person can be prohibited from going to bars or

talking publicly about the offence, or can be issued a no-contact or restraining obligation regarding an ex-partner or the victim, and so forth. Importantly, because it is not mentioned in art. 132-45, the JAP cannot prohibit the use of computers or the internet, nor can s/he impose random drug tests. In practice, the JAP essentially uses only one to three optional obligations, that is, to seek or keep employment, to seek treatment, and to pay damages.<sup>6</sup> Adding or removing obligations, depending on the releasee's needs, circumstances, and behaviour, is also understood as being part of sentence management.

### Recent trends in French prison release

The sentence management landscape has changed considerably in recent years. Hereafter, I shall list only the most salient issues.

First, as the state probation services have gradually focused exclusively on sentence implementation and have left the court building as a result of a 1999 merger with the prison services, their professional culture has become prisonised and more punitive. Combined with the

increased recruitment of lawyers<sup>7</sup> and the more positive recent 'criminology' momentum, this means that the probation staff are now hybrid lawyers and criminologists whose tasks are essentially understood as the processing of files and documents, and as working with offenders on their 'criminal act' (*passage à l'acte*). Meanwhile, social work and the treatment of criminogenic and non-criminogenic needs are mostly completed by the third sector and community agencies,<sup>8</sup> which contribute, as stated above, to the elaboration of release projects (with the help of attorneys, many of them playing a *de facto* desistance supportive role.<sup>9</sup> The rampant privatisation of sentence management has led to *en masse* referral, which has not been theorised or thought of in 'case management' terms. Moreover, far too often, this leads to turf war

The Constitution further allows the executive—in our case, the prison and probation services—to draft the laws and decrees that pertain to prison and community sentences and sentence management.

6. Herzog-Evans, M. (2014). *French reentry courts and rehabilitation: Mister Jourdain of desistance*. Paris: L'Harmattan.
7. de Larminat, X. (2012). *La probation en quête d'approbation. L'exécution des peines en milieu ouvert entre gestion des risques et gestion des flux*, Ph D thesis, Cesisip-University of Versailles-Saint Quentin.
8. Herzog-Evans, M. (forthcoming). France: managerialism, 'get off your butts' and de facto not-for-profit privatisation, in Dünkel, F., Pruin, I., Storgaard, A. & Weber, J. (eds.). *Prisoner resettlement in Europe*. Abingdon: Routledge. Herzog-Evans, M. (2018). French probation and prisoner resettlement: Involuntary 'privatisation' and corporatism, in Daems, T. & Vanderbekken, T. (eds.). *Privatising punishment in Europe?* Abingdon: Routledge, pp. 104-123.
9. Herzog-Evans, M. (2016). Release and supervision; relationship and support from classic and holistic attorneys. *International Journal of Therapeutic Jurisprudence*, 1(1), 23-58.

issues, although there are considerable local variations in this respect.<sup>10</sup> It does not help that the probation and prison services have become hyper-managerial;<sup>11</sup> this has occurred not so much, as in other jurisdictions, in order to generate more accountability and efficiency, but to manage and make do because of the state public services' utter financial and material misery. The nexus of managerialism and hyper-centralism and bureaucracy does not make for very collaborative entities. The French Constitution, which considers only the executive and, to a limited degree, the legislative branches as 'powers', but not the judiciary, further contributes to this. The Constitution further allows the executive—in our case, the prison and probation services—to draft the laws and decrees that pertain to prison and community sentences and sentence management. In recent years, the prison and probation services have used this de facto legislative power to create several parallel release procedures which are devoid of due process, or respect for prisoners' agency, and are in essence designed as a managerial prison clearing system. In practice, however, the vast majority of practitioners and a significant proportion of prisoners have rejected this procedure: prisoners, because they are not at all supported through the gate<sup>12</sup> and their agency is not respected, and practitioners, because as many decision-making studies have shown,<sup>13</sup> when authorities or judges receive less qualitative information on applicants (in this procedure, virtually none are available), they are less likely to grant early release, not more likely as reformers had hoped, which was confirmed by a recent study I conducted.<sup>14</sup>

## Conclusion

French sentence management produces a very flexible system, because it is seen as being part of the penal continuum, and as a dynamic process, which must be continually adapted to the person's circumstances and progress. It is a system in which the

person is considered to be the actor in his release project and as being in the driver's seat when it comes to deciding about the nature and the content of the release measure. Baring more expedient parallel out of court procedures, the vast majority of release procedures furthermore respect the legitimacy of justice and procedural justice, which, along with offender agency, probably supports positive outcomes.

This model is, however, fragile, because hyper-centralisation has met managerialism, and the probation services have merged with the prison service executive. Repeated executive-led legislative attacks, thanks to a Constitution that does not truly recognise the separation of powers to the detriment of the judiciary<sup>15</sup> are being carried out, such as the failed attempts at creating administrative release procedures, which prisoners and practitioners have rejected. Thus, as I am writing these lines, a Bill currently being discussed in Parliament is planning to award furlough decisions to prison governors, with the risk of turning this measure purely into a prison management tool as opposed to a progressive reentry instrument. If the political right resents the fact that the JAP releases many offenders, and the left complains that it does not release enough, both camps converge to complain that the executive, that is through their own subordinates, does not have full control over these matters.

The main lesson for English parole is that is paramount, yet it is very difficult, to balance, on the one hand, due process, offender consent and engagement, qualitative reentry preparation and support, and, on the other hand the need to process prisoners out of prison in due time. This becomes particularly difficult in overcrowded times, when a natural institutional inclination is to instrumentalise release measures<sup>16</sup> with the sole purpose of freeing prison space, at the expense of resettlement and the prevention of reoffending. In short, one must ensure that efficiency does not trump efficacy.

10. Herzog-Evans, M. (2017). *La mise en œuvre de la libération sous contrainte dans le Nord-Est de la France*. Report for Mission Droit et Justice (GIP).
11. Dubourg, C. (2015). *Les services pénitentiaires d'insertion et de probation. Fondements juridiques. Evolution. Evaluation et avenir*, PhD thesis in criminal law and criminal sciences, University of Nantes.
12. Tribunal de Grande Instance de Créteil (2013). *Les obstacles à l'aménagement des peines. L'impact des courtes périodes de détention sur la mise en œuvre des aménagements de peine*. Rapport, 11 mars 2014. Available at: <http://herzog-evans.com/les-courtes-peines-et-les-amenagements-de-peine/>, accessed Dec. 15, 2017.
13. McNeill, F. & Beyens, K. (eds.) (2014). *Offender supervision in Europe*. Basingstoke: Palgrave Macmillan.
14. Herzog-Evans, 2017, op. cit.
15. Gentilini, A. (2014). *Le juge de l'application des peines: vers une disparition?*, in Ghelfi, F. (ed.). *Le droit de l'exécution des peines. Espoirs ou désillusion*. Paris: l'Harmattan, 107-120.
16. Snacken, S., Beyens, K. & Beernaert, M.A. (2010), 'Belgium', in Padfield, N., van Zyl Smit, D. & Dünkel, F. (Eds.) *Release from prison. European policy and practice*, Cullompton, Devon, Willan Publishing: 70-103.

# Reviews

## Book Review

### **'Doing' Coercion in Male Custodial Settings: An Ethnography of Italian Prison Officers Using Force**

By Luigi Gariglio

Publisher: Routledge (2017)

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Price: £105.00

In June 2018 I was invited to participate in the formal launch by the Italian Ministry of Justice of a book, *'Doing' Coercion in Male Custodial Settings: An Ethnography of Italian Prison Officers Using Force* by Dr Luigi Gariglio, a former journalist and photographer turned prison scholar. The launch took place in the ancient and beautiful *Museo Criminologico* in Rome. Senior members of the Ministry of Justice attended, including the Head of the Training School, and an entire cohort of newly trained prison officers. It was a formal celebration of the first major ethnography of the work of prison officers in Italy. The book is a careful and engaging study carried out in a single Italian prison, Reggio Emilia. It presents a unique exploration (a 'micro-sociology') of the lawful yet morally problematic use of force. The author is creative and imaginative in his use of methods and scholarly in his approach to the subject. He includes an annotated chapter of photographs. He sheds new light on the 'traumatic and complex world' of the prison. This is an important achievement. It takes a lot of courage, patience, and resilience to carry out extensive

ethnographic research in prison, as many prison scholars know. Reciprocal trust is required, as Luigi suggests. That he has emerged from two years of ethnographic work, apparently on good terms with everyone, and that the Prison Service honoured his study in this way, is to his credit.

His description, and analysis, is both original and familiar. Wherever they work, prison officers face common difficulties. They use force, albeit 'on behalf of citizens', and therefore face danger, moral challenges, contradictions and strains in the workplace. The use of force is lawful, but is challenging and contested. This basic problem might be emblematic of their work as a whole. The work of prison officers is 'low visibility', and poorly understood, even by their managers, but even less so by the public. In the public eye, prison officers are not regarded as heroes, like nurses, or firemen, yet they often share similar tasks and develop comparable skills. Anyone who does extended fieldwork in a prison fairly comes to admire and respect prison officers who do their job well, and to sympathise with the conflicting aims underlying their day-to-day work.

The use of force, and its threat, which together constitute the use of coercion, is one of the least visible, yet most sharply felt aspects of their work. Luigi rightly identifies a gap in the research literature here. It is a typical paradox of the prison officer's occupation that the part of the job most central to their training,

identity, and sense of camaraderie, is neglected by scholars and taken for granted by managers. I know of only one study of the use of force, which explored the experience of restraint by prisoners, by a Cambridge MPhil student (I am still trying to trace the study). As far as I am aware, there is no existing study of the practice from the perspective of prison officers. So he is right to declare that his study is unprecedented. He subjects a critical and specific aspect of the prison officer's practice to careful scrutiny. His definition is helpful—*coercion* is the *threat* as well as the *use* of force or sanction. So his study is about what officers do once the talking stops 'working'. There is often still talk, during the final negotiation stages, but it stops being effective. My own work has insisted that we take more interest in the under-use of power by prison officers, since the under-use of their full powers is more common than its over-use. Critical scholars tend to focus exclusively on its over-use, as they are ideologically committed to a position that defines all power as bad.<sup>1</sup> Luigi's work takes 'legitimate use' as its starting point: what officers do when all else has failed. This is 'hard power'—still present, and required, despite some apparent 'softening' of the kinds of power used by modern penal systems. The first characteristics of a good study are the clarity and originality of its focus. Here, Luigi has been careful and purposive.

An important theme, or question, arises in his book, which

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1. Crewe, B., Liebling, A. and Hulley, S. (2011) 'Staff culture, the use of authority, and prisoner outcomes in public and private prisons' *Australia and New Zealand Journal of Criminology* 44(1) 94–115.

is not its main theme, but is important to reflect on. This is the question of the past: how prisons used to be. How much power, of the wrong kind, was available, invisible, or accepted? Contemporary prison narratives are often haunted by 'what used to be'. Prisoners and staff have long memories. So the past is sometimes played out in the present, even when violent practices no longer occur. Perhaps this relationship between time and violence in penal systems is not linear. To tackle illegitimate violence, Governors have to uncover it, know its shape, understand its meaning and function, get their own sense of 'what is going on' right. There has been increasing talk about the illegitimate use of violence by staff in England and Wales in recent years. There are grounds to believe it might have made a resurgence in a very challenging policy, financial and political climate. Perhaps the use of both legitimate and illegitimate violence ebb and flow in penal systems, in ways that are linked to political discourse, pay and conditions, staff numbers, and changing prisoner demographics. It is important to pose the questions, what makes penal systems more or less violent? Then, how are legitimate and illegitimate violence related to each other?

We cannot answer these kinds of questions without a decent grasp of what goes on in prison. We need theoretical resources, but most of all we need 'authentic description'. Authentic description is harder than it sounds.<sup>2</sup>

David Garland argued in *Punishment and Modern Society* that the prison is a complex, distinct, and tragic social

institution, 'which is marked by 'conflict, tension and compromise'. What appears on the surface to be a means of dealing with offenders so that the rest of us can lead our lives untroubled by them, is in fact a social institution, which helps define the nature of our society, the kinds of relationships which compose it, and the kinds of lives that it is possible and desirable to lead there.<sup>3</sup> The prison is full of paradox. It is a place of distrust, and yet in it, guarded and often intelligent readings of the situation, uses of discretion, exceptions, and acts of trust and kindness go on. To overlook these unexpected aspects of the prison world, as I have argued elsewhere, is to fail to understand it.<sup>4</sup>

On the other hand, what Luigi calls 'implicit violence' and coercion lurk everywhere in prison. This is the 'main frame' through which action occurs. Often, violence is averted at the moment of threat—the threat is enough to resolve the incident. But sometimes, close to the edge, the situation erupts into a 'critical incident'. The use of force is *lawful*—officers are authorised to use it on behalf of the state—but it may still not be legitimate (the prisoner might have been willing to concede; he may have been provoked, his anger might be reasonable). Or, there was no alternative: a custodial crisis has arisen and both sides are committed to a violent resolution. The moment of coercion is the breaking of the link in a long chain of events involving tacit agreements, characters with history, status, mind sets: 'frames' of their own. Luigi's close up account of the kinds of 'hard interaction' events in which

violence erupts are both disturbing and illuminating. He writes like he uses his camera. The descriptions are vivid, and clearly focused. Afterwards, prison life returns to 'normal': the officers' dominance, and the role of the rules, are re-established. The difference between a boxing ring, and the use of force in prison, Luigi argues, is that only one party's violence can ever claim to be legitimate. That order is reconstituted, at least until the next break, tells us something important about its nature: it is both fragile and binding. Most of what is interesting about prisons goes on in this gap between order and disorder, legitimacy and illegitimacy. This is precisely where our focus should be if we are to understand the difference between a prison that is 'moral' and a prison that is not.

Donald Cressey argued in 1961 that 'it is a remarkable and yet taken for granted achievement that most prisons are in fact orderly' given the potential for conflict and resistance.<sup>5</sup> In most prisons, order depends upon the willingness of prisoners to assent to the demands of a regime that is less about coercion than it is about interpersonal relationships and treatment. The term 'legitimacy' has been increasingly used by prison scholars, to help us to conceptualise and evaluate different types of penal order, to compare them, and to reflect on what kinds of prisons may be more rather than less legitimate, and what more sustainable and constructive models of penal order might look like.<sup>6</sup> Basically, research has shown, as the theory would predict, that more legitimate prisons, that use coercion less, and

2. Liebling, A. (2015) 'Description at the edge? I/It/Thou Relations and Action in Prisons Research', *International Journal for Crime, Justice and Social Democracy* 4 (1) 18:32.
3. Garland, D (1990) *Punishment and Modern Society* Oxford: Clarendon Press.p.287
4. Liebling, A; Elliot, C and Price, D (1999) 'Appreciative Inquiry and Relationships in Prison', *Punishment and Society: The International Journal of Penology* 1(1) pp 71-98; Liebling, A, Price, D and Shefer, G (2010) *The Prison Officer* (second edition), Cullompton: Willan.
5. Cressey, D. (ed.) (1961). *The Prison: Studies in Institutional Organization*. NY: Holt, Rinehart, Winston. P.2
6. See e.g. Bottoms and Tankebe (2012) 'Beyond Procedural Justice: A Dialogic Approach to Legitimacy in Criminal Justice', *Journal of Criminal Law and Criminology* 102(1): 101-150.



talk, persuasion, and opportunities for growth more, tend to generate more assent than less legitimate prisons. This is all about the work of prison officers.

I first studied prison officers seriously using a method called Appreciative Inquiry. This approach is based on a view that under certain conditions social research has a 'generative capacity'. Far from being 'deficit-oriented', like most social science, it can be affirming. Instead of asking about what goes wrong in prisons, it invites staff and prisoners to talk about what they are most proud of, when they have felt at their best, as an officer, what that looked and felt like, and what else was going on that made this best work possible. Appreciative inquiry can 'unleash the positive' in conversation, creating new discoveries, focusing attention on the most 'life sustaining aspects' of experience. This emphasis on 'exceptional' but real experiences provides new imagery and direction without ignoring or overlooking worst experiences. It adds the full range to accounts of human experience rather than focusing exclusively on problems and deficits.

Using Appreciative Inquiry in an organised way, a small research team and I were able to uncover and describe what it was that good prison officers were doing in a study of Whitemoor maximum security prison in 1998-9.<sup>7</sup> Their three greatest talents were talk, peacekeeping, and using their discretion. These are refined skills, which are difficult to describe, although officers call the use of them 'common sense'. At their best, experienced prison officers made evaluative judgments about individual prisoners, detected and

anticipated threats to order, and cajoled prisoners into compliance, using talk, humour, straightness, and the right combination of scepticism and trust. What they are doing is 'reading the situation' right. This is extraordinarily complex work. Most ordinary humans can't do it. Watching an outstanding officer absorb an angry prisoner's threats, communicate confidence, ask the right questions, and take the temperature on the wing down, returning the atmosphere from tension to order, is as impressive as watching David Beckham score goals, or Rudolf Nureyev dance Swan Lake. The analogies are deliberate. Experienced prison officers draw on what sociologist Anthony Giddens calls 'practical consciousness'—skills lying beyond the realm of verbal expression—in order to perform the accomplishment of order.<sup>8</sup> If at the end of a day in a prison, 'nothing has happened', this is due to the successful deployment of refined peacekeeping skills, and the careful and appropriate use of discretion.<sup>9</sup> There is a huge gap between 'the rules' or instructions in a prison, which are numerous and impossible to implement precisely, and the real prison world, in which officers make unworkable requirements 'work'. They operate in the gap, or the grey area, between the rule book and the prison in action, enabling the prison to function. They form judgments, take calculated risks, and exert informal forms of authority, drawing on many distinctive forms of power at their disposal. Very rarely do they use coercion. Their coercive powers constitute a last resort, when all the other forms—reward, legitimate,

exchange, expert or professional, and respect or personal authority—fail to work.<sup>10</sup> Knowing which form of power to deploy, and to what degree, requires close familiarity with their prisoners, and experience. They have to read the situation right, or 'see what is really going on in a situation'. Domination does not work, on the whole, but recognition, respect, courage and fairness generally do.<sup>11</sup>

This is complex territory, but it becomes all the more so when coercion and its threat appear. And when prison populations become less familiar. In today's multi-cultural world, in which we imprison minorities, foreigners and immigrants increasingly unevenly, and in which young men live a 'street life' that is oppositional, materialistic, and infused by drugs, prison officers have to be experts in culture, youth, and religion as well as, or in order to, be experts in distributions of trust.

So what about when prisoners are determined to be antagonistic? When they are in conflict with each other? Prisons concentrate, and bring into sharp relief, many of the rules and consequences of human conduct at its least cooperative. Luigi's book takes up the delicate point between optimistic visions of penal or social order and pessimistic, more dystopian visions, grounded in real antagonisms. Whether we design, manage, research and reform prisons from positive or negative visions of human possibility determines outcomes in ways we do not reflect upon carefully enough. He holds us in this difficult place between the two possibilities and asks, could violence really have been avoided in this scenario? Prisons are not all

7. Liebling, Price, and Shefer, G (2010) see n.4

8. Sparks, R., Bottoms, A.E. and Hay, W. (1996). *Prisons and the Problem of Order*. Oxford: Clarendon Press.

9. Liebling, Price, and Shefer, G (2010) see n.4

10. Hepburn, J R (1985) 'The essence of power in coercive organisations: a study of prison guards', *Criminology* 23(1):145-64; Liebling, Price, and Shefer, G (2010) see n.4, p.134-5

11. Liebling, A (2011) 'Distinctions and distinctiveness in the work of prison officers: Legitimacy and authority revisited', *European Journal of Criminology* 8(6): 484-499.

about power exerted upon the 'unfortunate'. They are about the points at which no other option exists, the efforts to avoid the worst, the ways in which power is used lightly and unobtrusively, to minimise harm, and the difficulties of getting this right.

Luigi has managed to be both critical, and respectful. The images he includes are powerful—both demystifying and yet shocking. They add something important to the task of authentic description he sets himself. This is a human world, in which difficult moments arise often, but are normally unseen. Officers express surprise that academics want to understand their world. As he writes in his conclusion, 'millions of flesh-and-blood human beings live and work behind bars in more or less precarious conditions and with varying numbers of staff to oversee them' (p. 197). Luigi gives us a nuanced and informative account of what this means, for many of those most centrally involved.

It can be a challenge to work in prison. Luigi mentions almost in passing that officers talk about suicides amongst prison staff. This was also the case when I studied suicides in prison many years ago. *'What about the staff?'* They asked. *'Had I noticed that staff suicides clustered in prisons where prisoner suicides were also highest?'* Burnout, sick leave, and absenteeism, are major organisational problems in most penal systems. But rates of these 'indices of discomfort' differ—we could learn much more about what it is like to work in a prison where staff derive enormous satisfaction from their work, where commitment to the job is highest, and sick leave is lowest. Prison scholars should be more interested in the professional and personal lives of those who work in prisons, and in the difference that professional confidence, support, and clear goals can make to cultures, moral climates, and

outcomes. Luigi makes prison officers human, in his study. He reflects their emotions, fears and commitments; their humanity. As he rightly argues, this allows a much more nuanced account of their work, and their world, to develop. This is both important and unusual.

Luigi used observation, visual methods, and interviews, for an extended period in a single prison, with both ordinary prison wings and a psychiatric facility. He was granted unprecedented access and seriously 'did his time': long days; a long sentence. He gives us several vignettes: close descriptions of the unfolding of an incident, and the responses to it. He was doing micro-sociology, not 'critical criminology', and this distinction is important. He does not moralise. This makes his work especially good, and trustworthy. Officers do not, as I have said, just 'hold their power in reserve'. They 'carry it', show it symbolically, present a credible threat to use it, signal to each other when the situation approaches the crucial turning point. This makes for gripping reading, and is only possible in long-term studies of the kind he has carried out. Some observers argue that we are witnessing something of a prison ethnography revival in Europe (can I still claim to be part of Europe?), and Luigi's study may be the first Italian contribution to this revival. This kind of work is challenging, time consuming, and not easily supported by academic employment structures. When they are done well, such studies make a very valuable contribution to understanding, and to the development of practice.

Luigi admits that these observations took their toll on him, and that he has not reported everything he saw or heard. He has been diplomatic, in the interests of dialogue, learning, and future research. These are the micro-

politics of prisons research. He leaves the question of what 'good violence' might be somewhat open-ended. He hints that power in prison is often exerted most heavily on the relatively powerless. But he also makes another important point: that prison reform has to take the problem of violence seriously. It often doesn't.

I knew absolutely nothing about Italian prisons when I first met Luigi. But I have become intrigued. I have learned a lot, and I recognise the officers depicted in his book, as well as the context in which they work: prison officers often express weariness with the idealisms of senior managers and academics, with human rights law, or rehabilitation scripts. There are reasons for this. They are in the trenches, dealing with the rest of the world's 'unreason'. Some excel at the job, and these officers find a way of combining credible authority with compassion, or sensitive management of individuals who are both troubled and troublesome. At their best, they can create a new normative order, in which reason is once again on the table. They can make a highly challenging form of punishment 'morally intelligible'. This is highly skilled work. Luigi's book adds an important missing ingredient to this picture.

The prison administration in Italy deserve praise for opening their doors to long-term ethnographic research. This is a mature act of trust, in the interests of knowledge-generation, and is always a risk. I left the event hopeful that the book, and the considered response to it, is likely to lead to well-informed dialogue, public education, and improvement.

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**The Ordinary Virtues: Moral Order in Divided World**

By Michael Ignatieff

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This book discusses how human rights can be understood not in ideological, legalistic or in political terms but locally, on the street in communities. Ignatieff takes as his starting point the UN's establishment of the 'Universal Declaration of Human Rights' in 1948. The chair of the commission that developed the Declaration, Eleanor Roosevelt (the US delegate to the UN and the former President's wife) referred to it as the 'international Magna Carta'. Ignatieff refers to the speech Eleanor Roosevelt made in 1958 commemorating the tenth anniversary of the Declaration. In it she talked about measuring the progress made not by the numbers of human rights treaties that had been ratified but by asking what difference human rights had made to ordinary people 'in small places, close to home'. She went on, '*unless these rights have meaning there, they have little meaning anywhere*'. Ignatieff considers how human rights can and do make sense in such 'small places'. He undertakes this consideration in the context of globalisation.

The lens through which much of what we understand as 'human rights' has its origins in developments almost parallel to what the UN commissioned. A milestone in these was the establishment in 1949 of the Council of Europe (of which the UK was one of its 10 founding members); and, in 1950, of the Council of Europe's European Convention on Human Rights (ECHR) and its Court (ECtHR). Since

the incorporation of the ECHR into UK domestic law (in 2000) 'human rights' has had a higher profile, even if that profile has been distorted by the misunderstanding of prejudicial media reports and an increasingly litigious society. This book offers a refreshing consideration of what human rights mean in practical terms nearby, in neighbourhoods. Its author is a Canadian thinker and politician who, when he lived in the UK for 22 years, was a noted columnist for *The Observer*, who also published in 1978 *A Just Measure of Pain: Penitentiaries in the Industrial Revolution, 1780—1850*.

*The Ordinary Virtues* is the outcome of three years work undertaken for the Carnegie Council for Ethics, during which Ignatieff and a colleague visited seven localities in four continents in search of answers to the question: 'Is globalisation drawing us together morally?' Each locality was chosen because of its particular experience of human rights difficulties: in Jackson Heights, New York, it was the difficulties of immigration in a community where 47 per cent were born in another country and in which in 56 per cent of households English was not the first language. In Los Angeles it was the racial difficulties that exploded with the Watts riots in 1965 and continued in the aftermath of the Rodney King riots of 1992. In Rio de Janeiro it was the difficulties of poverty in a favela. In Bosnia, it was the legacy of sectarian war in the 1990s. In Myanmar they visited a Buddhist monastery, before the current Rohingya crisis, to consider how human rights was resolved given religious and racial tensions. In Japan at Fukushima, they considered how a modern state recovers from the unthinkable—in 2011 the simultaneous occurrence of an earthquake, a tsunami and a nuclear accident—which broke the trust between the citizen and

public institutions, a wider theme of the book. Finally, in South Africa they looked at how the hopes of the ANC's early years in power had been corrupted exposing starkly the tensions of inequality.

Throughout Ignatieff reminds us that if equality in the law and ethics may have become the norm in constitutional and moral discourses, inequalities ('of power and status, of voice and entitlement' p. 198 and of 'income and fate' p.201) persist everywhere. '*A gap remains,*' he writes, '*between what the norm prescribes and what social life allows*' (p.199). What human rights mean in local communities is not to be found in the law or international treaties or statements of principles. Instead, Ignatieff argues, a different approach and a different language are needed to explain what human rights mean in the seven communities he visited. Although each of the seven communities were very different, he distils commonality, which he describes as 'ordinary virtues'.

He doesn't seek to define these virtues exhaustively but refers to resilience, to trust and to the assertion of autonomy. Importantly he sees these not as 'principles' or as the type of 'values' that organisations often nowadays like to trumpet as their code. For example, he sees resilience in the importance of 'doing your job', of 'mixing in the street'. In other words, he sees it in social activities that help establish and, when repeated and reciprocated, sustain trust. Ignatieff recognises too how—particularly in Los Angeles where the issues largely compromised the break down of the rule of law—public institutions can help (or hinder) the development of a 'tacit moral equilibrium'. How the police and other government agencies act is crucial.

In seeing that it is the ordinary virtues, practised by individuals,

which bind communities of the same culture together, he recognises that that involves distinguishing some social groups from one another ('living side by side but not together' p.114). Respect comes from confidence in one's own community. He considers how communities manage the challenges large movements of people, and particularly of refugee, which globalisation has enabled, make in human rights terms. He concludes that the treatment of refugees is best understood not in terms of the human rights laws which purport

to secure their safety and asylum but as a gift of generosity and compassion. He sees that as a gift not an entitlement it is more respected and respectful.

To this reader's mind, there are some parallels with the way prisons work. Statute and other instruments provide the formal regulatory framework to ensure the good order and humane governance of prisons but in practice it is the quality of interactions between individuals and different groups within prisons that ensure (or don't ensure) decency and safety. Even if this

personal reflection is wide of the mark, I recommend this book. It will inspire more perspicacious readers to find even richer insights. At a time when '*everywhere sovereign states are pushing back against universal obligations*' (p.216) Ignatieff sees ordinary virtues not universal declarations and treaties as the guarantor of the respect for human rights.

**William Payne** is a former Prison Governor.

# Interview: Rory Stewart OBE MP

*Rory Stewart OBE MP is Minister of State for Prisons. He is interviewed by Paul Crossey, Deputy Governor of HMP Huntercombe.*

**Rory Stewart is the Member of Parliament for Penrith and the Border having been re-elected in 2017 following his initial election in 2010. He became Prisons Minister in January 2018, the fourth Minister in as many years. His previous ministerial roles in government include Minister of State for Africa in the Foreign and Commonwealth Office and Department for International Development and Minister for the Environment and rural affairs for DEFRA.**

Prior to attending Oxford University, he was briefly an infantry officer with the Black Watch before joining the UK diplomatic service holding position in Jakarta, Montenegro and Southern Iraq. Between 2005 and 2008 he was Chair and Chief Executive of the Turquoise Mountain Foundation in Kabul, Afghanistan, helping to restore parts of the city and build new infrastructure. In 2008 he was appointed as the Ryan Family Professor of the Practice of Human Rights and Director of the Carr Centre of Human Rights at Harvard University's Kennedy School of Government.

In the early part of the new millennium he spent 21 months walking across Iran, Afghanistan, Pakistan, India and Nepal, staying with and relying on local people to complete his journey. He has written seventy articles on politics, presented three television documentaries and written four books, most notably *The Places in between* which became a New York Times bestseller and documented part of his walk across Asia.

The interview took place in late June 2018.

**PC: The UK has a high level of imprisonment by Western European standards, for example, our imprisonment rate is nearly three times that of Sweden and double that of Germany and Northern Ireland. Why?**

**RS:** There are very deep cultural and historical roots to this issue. The UK sits half way between America which has a very high level of incarceration and these smaller European countries which have a much lower rate. That is not unusual across a whole series of indicators in our society; including approaches to healthcare or social welfare. It reflects in part the American and British political systems, which as first past the post constituency based

systems, tend to give a much more direct voice to the public and, in relation to criminal justice, to victims. However, most of the systems you have described, which are proportionate representation systems, produce a slightly different relationship between the public and the government and that has meant that the views of politicians, judges and criminologists in Northern Europe, which tend to be in favour of shorter sentences, are more prominent. Whether this will be true forever I am not sure. We do not complete enough opinion polling to know whether the system that is being delivered in Northern Europe has a full degree of popularity and the legitimacy with their publics. Does it reflect a generally more liberal attitude among Scandinavian populations or does it reflect a criminal justice system that is slightly at odds with popular opinion?

**PC: Overcrowding was seen as one of the key factors in the Strangeways riot in 1990 and the Director General at the time of the Woolf inquiry suggested it should be 'rooted out'. It was also highlighted in the report fifteen years later into the murder of Zahid Mubarek at HMYOI Feltham. Should we be tackling prison capacity supply or demand?**

**RS:** The fundamental obligation is for us to house people in decent conditions. The absolute principle that they are sent to prison as a punishment, not for punishment, is central. We have an obligation to provide the funding and the infrastructure to be able to accommodate people decently and humanely within prison. But prison population can be quite unpredictable (Ken Clark was assuming that he could reduce the prison population to 65,000 and actually it went up). And, expectations of prisoners move in line with expectations in society. What might seem an acceptable condition in the 1980's, might not seem so today, or in 2040. As a department we should acknowledge that we have only limited leverage over the number of people that come into prison.

**PC: Foreign nationals represent 12 per cent of the entire prison population. Is there more we could be doing to remove and resettle these individuals saving the taxpayer money and freeing up overcrowded spaces?**

**RS:** Yes, there is always more we can do but it is incredibly tough work. The question is, what attitude

to take if a foreign national commits a crime in Britain? One option, which of course is available to the police and could potentially be expanded, is to say that if a foreign national commits an offence in Britain they are simply deported. The problem then is that the public would have to work out whether they were comfortable with the idea that foreign nationals would simply be pushed outside of the country. If on the other hand you decide to punish that individual through a custodial sentence you must get somebody at the other end to accept that individual and impose a custodial sentence in one of their own prisons. If you are serious about punishing people, then it is very difficult to punish somebody in someone else's prison system because you do not control that country or their prison system. The only prison system we control is our own. If you try to punish them in somebody else's system you are going to face 50 or 100 challenges largely to do with the willingness or inability of that other country to punish those individuals.

**PC: £1.3 billion was allocated to reform the prison estate, yet a number of prisons identified for closure are unable to be closed. How can prisons be decent when the infrastructure is largely very poor?**

**RS:** We have got to sort out the infrastructure and that means looking at the estate as a whole. I believe we need to do more to repair existing old buildings. Even with the best will in the world, after building another 10,000 places, we are still going to end up with three quarters of our people in old buildings. We need to find a way of investing in those old buildings. We also need to be more realistic about when some of these buildings are going to close. One of the things that worries me is that you can end up managing a prison and being told that it is going to close, but it might not close for years and during that time you need some investment. The estates department will be reluctant to invest in a prison that is due to close. I also believe that the prison population is likely to increase, and that is partly because of pressures from the public for longer sentences, therefore we need to both invest in the new estate and invest in the old estate.

**PC: The Government recently announced £20 billion investment in the National Health Service after lobbying by the ministers and officials. How much additional investment are you lobbying for to improve prisons?**

**RS:** We understand the pressure facing the Ministry of Justice and are working with the Treasury to address some of this. There will be a lot of people lobbying the treasury; the Ministry of Defence, social security and education want more money. To be fair, demand on the NHS services has been increasing by 10 per cent every year for the last five years. That would be the equivalent to our prison system having to take eight to ten thousand additional prisoners every year.

**PC: In his last annual report, the Chief Inspector of Prisons said that 'last year...too many of our prisons had become unacceptably violent and dangerous places. The situation has not improved — in fact it has become worse'. What are the key solutions to the prison crisis?**

**Are they financial, strategic or moral?**

**RS:** Well clearly a necessary condition of dealing with this is to have staff numbers to be able to run a regime. But that is not sufficient. We have seen in Exeter, Chelmsford, Nottingham and Liverpool that you can get the staff numbers up whilst violence continues to rise. Let us take Exeter as an example: you have a very hard working dedicated governor, you have hard working prison officers, you have the numbers theoretically now, or getting up towards the numbers that you would expect to find, so that

you can roll out keyworker schemes. However, on different indicators assaults against other prisoners and assaults against prison officers are up by between 40 and 70 per cent over the last 3 years and that is not withstanding good relationships with the local police, and other good work. So what has happened? Well this is where you have got to get onto the landings and have a really strong sense of what is happening with the day to day interactions between the prison officer and the prisoner and the way the governor and deputy governor are working at that level.

My gut instinct is the secret lies in how you build up the new prison officer. How do you make sure that somebody arriving on a wing, when 80 per cent of the prison officers could be there for less than a year, has the experience and the skills to really run a predictable decent regime? That then comes to what are we doing with our band 4 officers, what are we doing with our band 5 officers, how much leadership and control are they giving and how much priority are

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we putting on what is happening on the landings. One of the things that worries me, as an outsider looking at this, and this is the problem being a minister is that I am an outsider coming in and looking at the system so I do not begin to have the kind of experience that many of our governors have, but my instinct looking at this is that the core of every single prison is residential units. In particular, it is the Head of Residence, the custodial managers, band 4 officers and the band 3 officers. I want the focus to be there and on the day to day interactions. To get that right means that we have to do things that are not very fashionable, for example by making sure that some inspections are driven all the way from the governor down. I have just been to Leeds where the governor is inspecting at random 16 cells every day. Unless you get that right and you are absolutely clear about your boundaries, including for example being clear about what it means to go on 'basic', and you ensure that it is the same in every prison, with clear, predictable dealings with prisoners, it is going to be very difficult to get on top of violence.

I believe that there is too much in the media in general, of people thinking you can solve this problem just through increased staffing numbers or simply by talking a good game in terms of desistance theory or pontification about rehabilitation or sentence length. In the end the solution is very operational, and that is do you have focused, effective, loyal, hard-working people, day in, day out doing a really difficult job, consistently and well. That comes from good quality training and management.

**PC: In your book *The places in between* you wrote frankly about the discomfort and embarrassment of suffering diarrhoea in communities with only open defecation. What do you think of prison in-cell sanitation arrangements?**

**RS:** They need to be improved and I have been struck in HMP Perth, for example, that they have worked out how to insert semi-permanent screens, into small cells, with two bunks. I believe that we can do something similar and we should do it. I have seen in Leeds a much more standard approach to providing toilet seats and curtains, manufactured in the prison by prisoners, and installed. If they can do it in Leeds, they can do it anywhere else in the country.

...I do not begin to have the kind of experience that many of our governors have, but my instinct looking at this is that the core of every single prison is residential units.

**PC: The White Paper on Prison Safety and Reform promoted the idea of empowerment, but also set out how accountability would be strengthened. How is the balance best struck between the potential for innovation through empowerment and the constraining effects of accountability? For example, in terms of facilities management, how do you decide between a lack of local control and when it is a case that the Governor needs to be sacked?**

**RS:** My model on empowerment and accountability would be drawn from the Royal Navy. So the governor relates to the prison in the way that the captain relates to a naval ship. That ship is 3000 miles off in the ocean, nobody is micromanaging how that ship is run but every ship of its class operates to the same standards of every other ship of its class. They are painted the same way, they wear the same uniform, they meet the same drills, they call each other by the same names, and they are part of a proud uniform service. You do not have a situation where you turn up on a rust bucket and somebody says 'every boat is different, we all have different cultures, we all have different histories, and we all have different traditions'. Empowerment needs to be about what you need to do to run a really good prison. It certainly cannot be a licence for not meeting basic

minimum standards. It is not a licence to say I choose not to focus on my perimeter security, or I choose not to clean my cells because I think something else is more important. We need to define who we are, what our purpose is, what we deliver and then above that line be empowered to deliver extra. Of course a really great governor can run a really good prison, but my sense is a really good prison within a particular cohort looks surprisingly similar one to the other. I am not saying that a Category A prison looks like a Category C resettlement prison but I am saying that all good Category C resettlement prisons would be surprisingly similar in the way that they are run.

**PC: In her review Dame Sally Coates suggested that prison education needed to build capacity by attracting teachers from good and outstanding mainstream settings. What can be done to achieve this aim?**

**RS:** That is very difficult because the challenge of teaching prisoners is really tough. The most difficult people that any teacher has to deal with are those

children that they have to exclude from school. In general, that is about 2 per cent of the population. In a prison, more than 40 per cent of the prisoners have been excluded from school so, almost by definition, more than half of your people are amongst the trickiest cohort that you would ever have to deal with in a school. Additionally, that same cohort has failed to achieve basic skills; 24 per cent have been through the care system; and that very large numbers have mental health needs. And add to that, 54 per cent of our prisoners are in for sentences of under 12 months, and that a busy prison could be taking in over 100 prisoners a day. Teachers are taking classes teaching people who are not comfortable in a classroom and who are rolling in, rolling off. It is a very special kind of teacher that can do that work and we need to provide an environment for them that works. They need to have clean, decent, functional classrooms. They need to feel safe. They need to have the right materials and the right class sizes. We need to make sure that we deliver the prisoners to their classrooms on a regular basis. Crucially, there needs to be a clear education plan that they can follow through with a set curriculum and a set series of exams. All of that can make life a bit easier for the teacher, but it is still a very difficult job.

**PC: The Lammy review pointed to evidence that safety in prison and reoffending rates can be improved if all prisoners feel that they are being treated fairly. How can we improve trust in prisons for Black, Asian and minority ethnic prisoners?**

**RS:** The same way that we improve trust in prisons for all prisoners, which again comes down to the minute by minute interactions between the prison officer and the prisoner on the wing. Are you getting a well-informed consistent and predictable response out of the prison officer, do you know where you are, do you feel this person knows what they are doing, do you feel safe, do you feel there are boundaries in place, do you feel you are being treated fairly in relation to other people? That is a difficult balance because the very same research that is talking about treating people fairly, also recognised that everybody has different needs and histories, and we need to

understand why they are behaving like this. There is a huge amount of literature encouraging people to not punish, to show much more understanding and empathy for the individual roots of the person. However, that has to be balanced against the fact that if you start treating everybody differently, for example, withholding punishment for somebody for destroying their cell or assaulting a prison officer, that may possibly, in the case of the individual, help the individual. However, it can then discredit you with everybody else in the cohort who feel unfairly treated.

So fairness is not just fairness in relation to the individual, fairness is consistent boundaries applied to the entire cohort, the entire wing and done visibly. There has to be an element of rules and the problem I think is that we sometimes struggle in talking to academic criminologists and others about group psychology as opposed to individual psychology. They are generally trained in a therapeutic environment, where they are trained to think about how to treat individuals. But what teachers have learned in tough inner city schools is that actually the question is not just how you treat Jonny who is kicking off at the back of the class, it is the consequences for how you treat Jonny for the other 30 people in the class who are trying to learn something.

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**PC: Pre-Brexit, The Sun described the European Court**

**of Human Rights as the 'European Court of Killers' rights'. We currently look likely to remain as part of the Council of Europe after Brexit. As a professor of Human rights and Director of the Centre for Human Rights at Harvard, what are your thoughts on this?**

**RS:** Human rights are universal, they are not something that are dependent on an individual country. They reflect a very basic instinct about human dignity and human equality which is that you have certain inviolable rights which are not relative to the costs and benefits of upholding them in any particular case. That means that cruel and inhumane treatment is forbidden absolutely everywhere to everyone. At the same time we have an obligation to protect the public, and we have an obligation to respect the interest and rights of victims. We have to think about how to punish people and we have to



think about how to prevent them from reoffending. All of these things need to be done in a way that is decent, controlled and humane.

**PC: In your book you talk about combatting the widespread misunderstanding of Afghan culture and misguided narrative by outsiders leading to doomed state-building efforts. Do you think public policy makers understand the lives and culture of prisoners and their communities any better than the international development professionals understood the Afghan population?**

RS: I think we have got an advantage here which people do not have in Afghanistan which is that this is ultimately our own country, we speak the same language, we, broadly speaking, come from the same culture, we have a free media which is very active and hold us to account. We have democratic institutions, we have voters, all of which are lacking in somewhere like Afghanistan, where you can launch a flaky policy project and there is no come back because the Afghans simply are not able to do so in the same way as the British population can. However, we still face challenges and one of those challenges is the way that our minds work; we find it very difficult to distinguish between what we feel we ought to do and what we can do. A lot of the conversations around prisons going back to the era of Ken Clarke will be grand

abstract statements about how we ought to have 65,000 prisoners. Now personally I do not find that very useful, if we have got 82,000 prisoners I do not care that you ought to have 65,000 prisoners, you have got to look after 82,000 prisoners and you have to plan on the that basis. Certainly, most of what really matters is doing the things you do well, not simply launching new initiatives. However, all the emphasis in the policy world, including those peoples' careers, is on shiny new innovation and probably the reality is that running a good decent humane prison does not change very much over time.

It is very human and direct but policy makers do not like that. They want to say the whole world is changing and introduce is some new approach, new digital initiative or some new development of technology. I tend to assume that the world we are looking at now is roughly what the world is going to look like in 20 to 30 years' time. Now I am prepared to be pleasantly surprised if it changes but I think we should plan on that assumption.

**PC: The Government's proposal to make greater use of release on temporary licence is welcome to prison staff and prisoners. However, it is a risk management not elimination process. What will you say to the media if despite all risk management efforts there is another serious offences committed on ROTL?**

RS: Well it is very difficult. Our primary obligation is to protect the public and we need to be risk aware. Some of our prisoners have committed genuinely horrifying crimes and we cannot minimise that. Compliance with ROTL is very high which shows that good decisions are being made but when things go wrong the impact can be absolutely catastrophic. It is therefore right for the public to expect us to be very cautious about temporary release. At the same time,

however, ROTL is hugely important because it is one of the very best ways to get somebody into employment and employment has a huge impact on reoffending. The real answer to concerns about safety is that overall, the best way to protect the public is to reduce reoffending and the way to reduce reoffending is to make more use of things like ROTL. Virtually all prisoners are released at some point and the safest way of getting them out is through using things like ROTL. I believe we should be increasing the use of ROTL, but we need to do so with very

careful processes so that were something to go wrong we can together reassure the public that we had done everything we should to assess that risk and we did so in a professional, standardised, predictable fashion. We have to accept that the protection from the public comes from changing lives and not from keeping them locked up forever.

**PC: Considering the current focus on prison officer retention rates, how long do you think you will last in post given the transitory nature of your predecessors?**

RS: That is a really good question, but the answer to that is we need to build a resilient system. One of the problems with the Prison Service is that it is too vulnerable to changes in prison ministers. It is also too vulnerable to changes in governors. In too many of our prisons there is a problem identified, a super hero governor is sent in, the super hero governor spends a bit of time there, then moves on and the prison collapses again. This is why we need to invest in the band 3, band 4, band 5 officers. If

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you look at the military they have had as many ministers in the Ministry of Defence as we have had in Justice, but nobody spends their time in the army saying 'the reason we are in such a mess is that we have had so many ministers', because the military continues regardless really. It does not care which minister comes and goes. Equally a good infantry regiment can tolerate a range of different types of commanding officer because effectively the sergeants hold the whole unit together. We are too vulnerable to people at the top coming and going, but most

importantly not paying enough attention to what their predecessors were doing. Therefore, one of the challenges I give to governors is: I would like governors to spend longer in post. However, in the current situation, where they are not spending that long in post, they really must pay a lot of attention to what their predecessors have done and what their successor is going to do. This has been a problem going back to HMP Albany on the Isle of Wight in the early 1960's where every 18 months the governor changed and the entire approach was tipped on its head.



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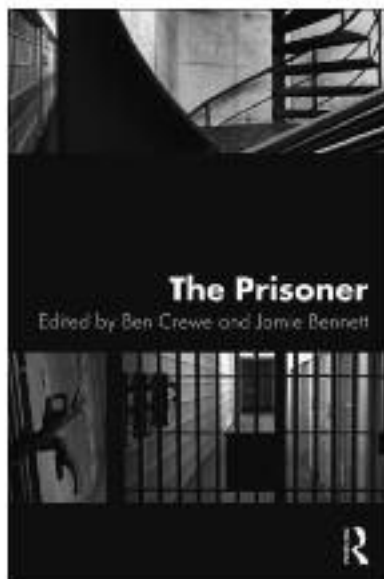
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